

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 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: H3/19/01 S4/4/01

# A Bill

HOUSE BILL 2427

5 By: Representatives Cowling, Jacobs, D. Elliott, Mack  
6 By: Senators P. Malone, Horn  
7

## For An Act To Be Entitled

10 AN ACT TO LICENSE TITLE INSURANCE AGENTS; AND FOR  
11 OTHER PURPOSES

### Subtitle

14 AN ACT TO LICENSE TITLE INSURANCE  
15 AGENTS.  
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17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

#### SECTION 1. Title - Purpose.

21 (a) This act shall be known and may be cited as the "Arkansas Title  
22 Insurance Agent's Licensing Act."

23 (b) The purpose of this act is to provide the procedures for the  
24 licensing of title insurance agents.  
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#### SECTION 2. Application of act and construction with other laws.

27 Without any further qualification or examination, an attorney at law  
28 licensed to practice law by the State of Arkansas shall, upon written request  
29 to the Title Insurance Licensing Board, and payment of the original license  
30 fee, be immediately certified by the board as a licensed title insurance  
31 agent, and a license certificate shall be immediately issued to the attorney.  
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#### SECTION 3. Definitions.

34 (a) "Business Entity" means a corporation, firm, association,  
35 partnership, joint venture, limited liability company, limited liability  
36 partnership, or other legal business entity;

1       (b) "Commitment" means a contract or binder reporting the state of the  
2 title to the real property described and committing the title insurer to  
3 issue a contract of title insurance upon compliance with the requirements  
4 stated and subject to any exceptions set forth;

5       (c) "Home state" means the District of Columbia and any state or  
6 territory of the United States in which a title insurance agent maintains a  
7 principal place of residence or principal place of business and is licensed  
8 to act as a title insurance agent;

9       (d) "Person" means any natural person, firm, corporation, partnership,  
10 association, limited liability company, limited liability partnership or  
11 other business entity;

12       (e) "Sell" means to exchange a contract of title insurance, for  
13 valuable consideration, on behalf of a title insurer;

14       (f) "Title Insurance" means the insurance defined in Arkansas Code 23-  
15 62-108;

16       (g) "Title Insurer" means a person authorized by the State of Arkansas  
17 to underwrite and effectuate a contract of title insurance; and

18       (h) "Title Insurance Agent" means a person required to be licensed  
19 under the laws of the State of Arkansas to sell title insurance.

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21       SECTION 4. Penalties.

22       (a)(1) Any person violating any of the provisions of this act shall be  
23 guilty of a misdemeanor and upon conviction shall be punished by a fine of  
24 not less than five hundred dollars (\$500.00) nor more than one thousand  
25 dollars (\$1,000.00) for each offense.

26       (2) Each succeeding day on which this act is violated shall be a  
27 separate offense.

28       (b) If any title insurance agent shall willfully and knowingly falsify  
29 any public record or information required to be furnished, the title  
30 insurance agent shall be guilty of a Class D felony in addition to any civil  
31 liability.

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33       SECTION 5. Title Insurance Agents' Licensing Board.

34       (a) There is created the Arkansas Title Insurance Agents' Licensing  
35 Board.

36       (b)(2) The board shall consist of five (5) members, appointed by the

1 Governor, who shall serve four-year terms, subject to confirmation by the  
2 Senate.

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

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

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

10 (c) Vacancies on the board caused by death, resignation or otherwise  
11 shall be filled by appointment of the Governor, subject to confirmation by  
12 the Senate.

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

15 (e) Each member of the board shall serve without compensation but  
16 shall be reimbursed for travel and expenses in accordance with Arkansas Code  
17 25-16-902.

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19 SECTION 6. Organization and proceedings.

20 (a)(1) The board shall organize by the election of a chairman and  
21 secretary-treasurer.

22 (2) The chairman and secretary-treasurer of the board shall have  
23 the power to administer oaths.

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

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27 SECTION 7. Duties and Powers.

28 (a) The board shall keep a register of the names of each applicant for  
29 licensure, with the applicant's place of business and other information as  
30 may be deemed appropriate, including a notation of the action taken by the  
31 board and the date upon which any licenses are issued. In addition, the board  
32 shall maintain other records, registers and files as may be necessary for the  
33 proper administration of its duties under this act.

34 (b) The board may adopt rules and regulations as it shall deem  
35 necessary or desirable for the proper administration of its powers and duties  
36 and the carrying out of the purposes of this act.

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

3       (d) In addition to its other powers, the board may institute suits and  
4 other legal proceedings in a court of competent jurisdiction in Pulaski  
5 County, Arkansas as may be required for the enforcement of this act.

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7       SECTION 8. License fees, disposition of funds, and Title Insurance  
8 Agents' Licensing Board Fund.

9       (a) The board shall collect fees as follows:

10           (1) Two hundred fifty dollars (\$250.00) for an original license;

11           (2) One hundred fifty dollars (\$150.00) for a renewal license; and

12           (3) An examination fee in an amount set by the board.

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

18       (c) All moneys paid into State Treasury and credited to the Title  
19 Insurance Agents' Licensing Board Fund, or so much as may be needed, shall be  
20 used by the board for the payment of all expenses and expenditures incurred  
21 under this act.

22       (d) The Auditor of State shall draw warrants against the Title  
23 Insurance Agents Licensing Board Fund, upon the request of the board, for  
24 expenses and expenditures, and the Treasurer of State shall pay the warrants  
25 out of the fund.

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27       SECTION 9. License Required.

28       (a) On and after January 31, 2002, a person shall not sell a  
29 commitment or a contract of title insurance pertaining to real property in  
30 this state unless the person is licensed as a title insurance agent under  
31 this act.

32       (b) On and after January 31, 2002, no commitment or contract of title  
33 insurance pertaining to real property situated in the State of Arkansas shall  
34 be issued, sold or exchanged unless the commitment and contract of title  
35 insurance is countersigned by a title insurance agent, who is a resident of  
36 this State and licensed under this act.

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SECTION 10. License - Application.

(a) Any person desiring to become a licensed title insurance agent shall make application to the Board for license registration.

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

(c) Except as provided in subsection (e) of this section, each application shall be accompanied by the examination fee prescribed in section 8 of this act.

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

(e) If the person seeking to become a licensed title insurance agent is a business entity, the application shall show the names of all members, partners, manager, venturers, officers, and directors of the business entity and shall designate each natural person who is to exercise the powers to be conferred by the license and each natural person shall take the examination and pay the examination fee prescribed in section 8 of this act.

SECTION 11. License - Examination.

The examination shall be in the form of written interrogatories as may be prescribed by the board from time to time to determine the proficiency of the applicant.

SECTION 12. License - Issuance or reapplication.

(a) If the person satisfactorily passes the examination and is found by the board:

(1) To be at least eighteen (18) years of age;

(2) To be a resident of the State of Arkansas for at least six (6) months;

(3) To have not committed any act that is a ground for denial, suspension or revocation set forth in section 19 of this act;

(4) To have paid the original license fee prescribed by section 8 of this act; and

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

6           (b) If the person seeking to become a licensed title insurance agent  
7 is a business entity, and the board finds each natural person designated by  
8 the business entity to exercise the powers to be conferred by the license:

9                   (i) Is at least eighteen (18) years of age;

10                   (ii) Is a resident of the State of Arkansas for at least six (6)  
11 months;

12                   (iii) Has not committed any act that is a ground for denial,  
13 suspension or revocation set forth in section 19 of this act;

14                   (iv) Has paid the original license fee prescribed by section 8  
15 of this act; and

16                   (v) Is determined by the board to be qualified;  
17 and the business entity has paid the original license fee prescribed by  
18 section 8 of this act, the business entity shall be certified as a licensed  
19 title insurance agent, and the license certificate provided for shall be  
20 issued to the person. The privileges granted by the license certificate shall  
21 continue unless revoked, or unless the certificate is surrendered to the  
22 board.

23           (c) The license certificate shall be in a form prescribed by the Board  
24 and shall attest that the person possesses the knowledge, skill, ability and  
25 understanding to act as a title insurance agent and is designated a licensed  
26 title insurance agent. The license certificate shall be prominently displayed  
27 in the office where the person is employed.

28           (d) A person failing to satisfy the board that the applicant possesses  
29 the qualifications or proficiency to become a licensed title insurance agent  
30 may reapply for registration if the application is accompanied by the  
31 examination fee provided for in section 8 of this act, but no application  
32 shall be submitted sooner than five (5) months following the date on which  
33 the last previous examination was administered to the applicant.

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35           SECTION 13. Nonresident Licensing.

36           Unless denied licensure for having committed any act that is a ground

1 for denial, suspension or revocation set forth in section 17 of this act, a  
2 nonresident person shall receive a nonresident title insurance agent license,  
3 without complying with the examination requirement prescribed by section 11  
4 of this act if:

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

7 (2) The person has submitted the proper request for licensure as  
8 prescribed by the board, including proof of licensure in the home state and  
9 has paid the original license fee prescribed by section 8 of this act;

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

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13 SECTION 14. Abstractor's Exemption from Examination.

14 Every person to whom the State of Arkansas has, as of January 1, 2001,  
15 issued a certificate of registration as a registered abstractor or a  
16 certificate of authority to engage in the business of abstracting, shall be  
17 exempt from the examination required in section 11 of this act, and the  
18 person, including each natural person designated by a business entity to  
19 exercise the powers to be conferred by the title insurance agent's license,  
20 who is an Arkansas registered abstractor on January 1, 2001, upon payment of  
21 the original license fee, shall be certified by the board as a licensed title  
22 insurance agent, and the license certificate shall be immediately issued to  
23 the person.

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25 SECTION 15. Temporary License.

26 (a) The board may issue a temporary title insurance agent's license  
27 for a period not to exceed one hundred eighty (180) days without requiring an  
28 examination if the board deems that the temporary license is necessary in the  
29 following cases:

30 (1) To the surviving spouse or court-appointed personal  
31 representative of a licensed title insurance agent who dies or becomes  
32 mentally or physically disabled, to allow adequate time for the sale of the  
33 title insurance agent's business or for the recovery or return of the title  
34 insurance agent, or to provide for the training and licensing of new  
35 personnel to operate the title insurance agent's business;

36 (2) Any circumstance where the board deems that the public

1 interest will best be served by the issuance of the temporary license.

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

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5 SECTION 16. Unregistered employees, officers and assistants.

6 Nothing in this chapter shall be construed to prohibit any person  
7 holding a valid license from having the directors, partners or members, and  
8 employing the officers, personnel and clerical and stenographic assistants as  
9 may be necessary in the conduct of its business who are not licensed under  
10 this act.

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12 SECTION 17. License - Expiration - Renewal.

13 (a)(1) All licenses issued under this act shall expire on the same  
14 date.

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

18 (b) Current licenses shall be renewed as provided for in this section  
19 for a one-year period upon payment of the renewal fee prescribed in section 8  
20 of this act. If the license is held by a business entity, the renewal fee  
21 shall be paid for each natural person designated by the business entity to  
22 exercise the powers conferred by the license.

23 (c)(1)(A) No more than sixty (60) days nor less than thirty (30) days  
24 prior to the expiration date of the license issued, the board shall cause a  
25 notice of expiration and application for renewal to be mailed to each of the  
26 holders of a license.

27 (B) The notice and application shall be in a form prepared  
28 by the board.

29 (2) Upon determination by the board of the applicant's  
30 compliance with this act, a renewal license shall be issued to the applicant.

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

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



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

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

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

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9           SECTION 18. Access to public records.

10           Licensed title insurance agents shall have access to the public records  
11 in any office of any city, or county, or of the state, and shall be permitted  
12 to make memoranda, notations, or copies and to occupy reasonable space with  
13 equipment for that purpose, subject to the reasonable regulation of the  
14 custodian of the public records and during the business hours of each office.

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16           SECTION 19. Revocation of License - Grounds.

17           The board is authorized, after a hearing to cancel and revoke any  
18 license issued to any person under this act:

19                   (1) For a violation of any of the provisions of this act;

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

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

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25           SECTION 20. Revocation of License - Procedure - Appeal.

26           (a)(1) Upon a verified complaint being filed with the board, or upon  
27 the board's own motion filing a complaint charging the person holding a title  
28 insurance agent's license, or any natural person designated by a business  
29 entity holding a title insurance agent's license to exercise the power  
30 conferred by that license, with a violation of any of the provisions of this  
31 act, or conviction of a crime involving moral turpitude, or with habitual  
32 carelessness or fraudulent practices, the board shall immediately notify in  
33 writing by registered mail, with return receipt, the person of the filing of  
34 the complaint and furnish that person with a copy of the complaint.

35                   (2) The board shall at the same time require the person to  
36 appear before it on a day fixed by the board, not less than twenty (20) days

1 nor more than forty (40) days from the date of the service of the complaint  
2 on that person, and to show cause why the license should not be canceled and  
3 revoked.

4 (3) Under the hand of its chairman and the seal of the board,  
5 the board may subpoena witnesses and compel their attendance and may require  
6 the production of books, papers, and other documents.

7 (4) The chairman or the secretary may administer oaths or  
8 affirmations to witnesses appearing before the board.

9 (5)(A) If any person refuses to obey any subpoena so issued or  
10 refuses to testify or to produce any books, papers, or other documents, the  
11 board may present its petition to any court of record, setting forth the  
12 facts.

13 (B) The court shall, in a proper case, issue its subpoena  
14 to the person requiring his attendance before the court and there to testify  
15 or produce the books, papers, and documents as may be deemed necessary and  
16 pertinent.

17 (6) The person holding the license shall be entitled to counsel  
18 at any hearing before the board or any other hearing involving revocation of  
19 his or her license.

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

22 (b)(1)(A) Either the respondent or the complainant may appeal from the  
23 decision of the board to the circuit court in the county of the respondent's  
24 place of business.

25 (B) The appeal shall be taken within thirty (30) days  
26 after the decision of the board by causing a written notice of appeal to be  
27 served on the secretary of the board and executing a bond to the State of  
28 Arkansas, with surety to be approved by the secretary of the board,  
29 conditioned to pay all costs that may be adjudged against the appellant.

30 (2) Upon an appeal being taken, the secretary of the board shall  
31 immediately make out a return of the proceedings in the matter before the  
32 board with its decision, and file them together with the bond and all the  
33 papers pertaining thereto in his possession, including a certified record of  
34 testimony taken at the hearing, with the clerk of the court to which the  
35 appeal is taken.

36 (3) The court shall hear the appeal as a trial de novo, and the

1 costs of the appeal, including the furnishing of the testimony, shall be  
2 taxed as the court may direct.

3 (4) An appeal shall stay the cancellation of any license until  
4 the final decision is had on appeal.

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6 SECTION 21. Commitment and Policy as evidence.

7 A photostat or verbatim copy of any commitment or contract of title  
8 insurance pertaining to real property situated in the State of Arkansas shall  
9 be admissible in evidence on behalf of any party litigant in any court in the  
10 State of Arkansas and shall be prima facie evidence of the facts therein  
11 recited and contained.

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13 SECTION 22. Effective Date. This act shall become effective September  
14 1, 2001.

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19 /s/ Cowling  
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