

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

SENATE BILL 172

5 By: Senators J. Hutchinson, S. Flowers, D. Johnson
6 By: Representatives Wright, Bennett
7

For An Act To Be Entitled

9 TO ELIMINATE DUPLICATIVE REGULATION BY DEREGULATING
10 FROM COVERAGE UNDER THE ARKANSAS TITLE INSURANCE ACT
11 ATTORNEYS LICENSED AND REGULATED BY THE SUPREME
12 COURT; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES.
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Subtitle

17 TO ELIMINATE DUPLICATIVE REGULATION BY
18 DEREGULATING FROM COVERAGE UNDER THE
19 ARKANSAS TITLE INSURANCE ACT ATTORNEYS
20 LICENSED AND REGULATED BY THE SUPREME
21 COURT; AND TO DECLARE AN EMERGENCY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. DO NOT CODIFY. Findings and legislative intent.

27 (a) The General Assembly finds that:

28 (1) The practice of law has traditionally included the
29 examination of title, the rendering of title opinions, and the facilitation
30 of the conveyance of title to real property;

31 (2) Attorneys are licensed and regulated by the Supreme Court
32 and:

33 (A) Have satisfied extensive educational requirements and
34 have annual continuing education requirements;

35 (B) Are subject to rigorous legal and ethical standards;

36 (C) Are subject to oversight and discipline by the Supreme



1 Court; and

2 (D) Are capable of performing the same tasks and
3 activities as a title insurance agent without the necessity of being subject
4 to oversight and discipline by both the Supreme Court and the State Insurance
5 Department;

6 (3) The educational and oversight functions of the department
7 with respect to licensed attorneys are duplicative and result in an
8 unnecessary expenditure of state resources; and

9 (4) It is in the best interest of the state to exempt an
10 attorney licensed by the Supreme Court from the requirements of the Arkansas
11 Title Insurance Act, § 23-103-401 et seq., when the attorney is performing
12 functions substantially similar to that of a title insurance agent or a
13 closing agent.

14 (b) It is the intent of the General Assembly by the enactment of this
15 act to exempt attorneys licensed by the Supreme Court from the Arkansas Title
16 Insurance Act, § 23-103-401 et seq.

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18 SECTION 2. Arkansas Code Title 23, Chapter 103, Subchapter 4, is
19 amended to add the following subchapter:

20 23-103-418. Exemption for licensed attorneys.

21 (a) An attorney licensed and in good standing with the Supreme Court
22 to practice law:

23 (1) Is exempt from all provisions of the Arkansas Title
24 Insurance Act, § 23-103-401 et seq; and

25 (2) May perform the same functions and shall have the same
26 rights as a closing agent and a title insurance agent without the necessity
27 of being licensed under § 23-64-101 et seq.

28 (b) A title insurer may conduct business with an attorney licensed and
29 in good standing with the Supreme Court to practice law in the same manner
30 that a title insurer conducts business with a title insurance agent or title
31 insurance agency.

32 (c) The Insurance Commissioner shall not:

33 (1) Promulgate rules that would inhibit a title insurer from
34 conducting business with an attorney licensed and in good standing with the
35 Supreme Court to practice law; or

36 (2) Assess penalties, discipline, or otherwise exercise

1 jurisdiction under the Arkansas Title Insurance Act, § 23-103-401 et seq.,
2 over an attorney licensed and in good standing with the Supreme Court to
3 practice law.

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5 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General
6 Assembly of the State of Arkansas that the Arkansas Title Insurance Act, §
7 23-103-401 et seq., places unfair and undesirable restrictions on commerce
8 and the practice of law; that this act is necessary to alleviate undue burden
9 and expense to the state and to attorneys that are licensed and in good
10 standing with the Supreme Court; and that this act is immediately necessary
11 to prevent the waste of resources due to the duplicative regulation and
12 licensing of attorneys by both the Supreme Court and the Insurance
13 Commissioner. Therefore, an emergency is declared to exist and this act
14 being immediately necessary for the preservation of the public peace, health,
15 and safety shall become effective on:

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

17 (2) If the bill is neither approved nor vetoed by the Governor,
18 the expiration of the period of time during which the Governor may veto the
19 bill; or

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

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