FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 166

96TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, February 24, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0280S.03C

AN ACT

To repeal section 381.115, RSMo, and to enact in lieu thereof one new section relating to the licensure of title agencies and title agents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 381.115, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 381.115, to read as follows:

381.115. 1. It is unlawful for any person to transact the business of title insurance unless authorized as a title insurer, title agency or title agent.

2. It is unlawful for any person to transact business as:

(1) A title agency, **including a title insurer engaged in direct operations,** unless the person is a licensed business entity insurance producer under subsection 2 of section 375.015**, which license under this chapter shall further require that the applicant has and maintains a physical place of business within the state of Missouri substantially devoted to the conduct of the title insurance business**; or

(2) A title agent, unless the person is a licensed individual insurance producer under subsection 1 of section 375.015**, which license under this chapter shall further require that the applicant either has and maintains a physical place of business within the state of Missouri substantially devoted to the conduct of the title insurance business, or is employed by a title insurer or title agency licensed in Missouri,** or is exempt from licensure under subsection 3 of this section.

3. A salaried employee of a title insurer, title agency, or title agent is exempt from licensure as a title agent if the employee does not materially perform or supervise others who perform any of the following:

(1) Sell, solicit, or negotiate a title insurance policy or closing protection

letter;

(2) Calculate premiums for a title insurance policy or closing protection letter;

(3) Determine insurability;

(4) Establish, calculate, or negotiate title charges;

(5) Conduct title search or examinations;

(6) Execute title insurance policies, commitments, binders or endorsements; or

(7) Handle escrows, settlements, or closings.

4. It is unlawful for any title insurer to contract with any person to act in the capacity of a title agency or title agent with respect to risks located in this state unless the person is licensed as required in this section.

5. The director shall adopt rules, regulations, or requirements relating to licensing and practices of persons acting in the capacity of title agencies or agents. These persons may include title agencies, title agents and employees of title insurers or title agencies. Such rules, regulations, or requirements shall, until at least January 1, 2010, permit either provisional licensure or waiver of licensure for employees newly performing functions described in subsection 3 of this section, while under the direct supervision of a licensed insurance producer during the first six months of such employee's initial employment. This subsection is not intended to require licensure of persons performing a clerical function under the direct supervision and direction of a licensed insurance producer.

6. Every title agency licensed in this state shall:

(1) Exclude or eliminate the word insurer, insurance company, or underwriter from its business name, unless the word agency is also included as part of the name; and

(2) Provide, in a timely fashion, each title insurer with which it places business any information the title insurer requests in order to comply with reporting requirements of the director.

7. A title agency or title agent licensed in this state prior to the effective date of this chapter shall have ninety days after the effective date of this chapter to comply with the requirements of this section.

8. If the title insurer, title agency, or title agent delegates the title search to a third party, such as an abstract company, the insurer, agency, or agent must first obtain proof that the third party is operating in compliance with rules and

regulations established by the director and the third party shall provide the insurer, agency, or agent with access to and the right to copy all accounts and records maintained by the third party with respect to business placed with the title insurer. Proof from the third party may consist of a signed statement indicating compliance, and shall be effective for a three-year period.

9. A violation of any provision under this section is a level three violation under section 374.049.

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