

Regular Session, 2011

SENATE BILL NO. 36

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TITLE INSURANCE. Provides relative to abstracts of title and title opinions. (1/1/12)

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AN ACT

To amend and reenact R.S. 22:512(1) and 17(b)(vi) and R.S. 37:212(A)(2)(d), relative to abstracts of title; to provide definitions; to provide relative to title insurance; to provide relative to abstracts of title and title examination and opinions; to provide relative to the practice of law; to provide definitions, terms, procedures, conditions, and requirements; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:512(1) and 17(b)(vi) are hereby amended and reenacted to read as follows:

§512. Definitions

As used only in this Subpart, the following words are defined as:

(1)(a) "Abstract of title" or "abstract" shall mean a ~~written history, synopsis, or summary of the recorded instruments affecting the title to movable or immovable property.~~ **a written history, synopsis, or summary of the recorded instruments indexed in the public records affecting the title to immovable property that: (i) is prepared and certified by the abstractor in accordance with the minimum search periods and requirements of a title opinion as set forth in Paragraph (17)**

1 of this Section; (ii) includes a photocopy or electronic copy of such recorded
 2 instruments, or abstracts of such recorded instruments prepared by the
 3 abstractor who personally reviewed such recorded instruments; and (iii) is
 4 dated and signed by the abstractor and presented to an attorney duly licensed
 5 and authorized to practice law in Louisiana as set forth in Paragraph (17) of
 6 this Section and R.S. 37:212 for examination.

7 (b) For the purpose of this Paragraph, "public records" shall mean all
 8 instruments, including actual attachments thereto, which are recorded in the
 9 mortgage and conveyance records maintained by the clerk of court of the parish
 10 in which the property is situated, and the ad valorem property tax records for
 11 the parish and political subdivision in which the property is situated.

12 (c) Nothing in this Section prohibits any attorney duly licensed and
 13 authorized to practice law in Louisiana from personally reviewing and
 14 examining the public records in order to certify or give an opinion as to the title
 15 to immovable property.

16 * * *

17 (17) "Title insurance business" or "business of title insurance" shall mean:

18 * * *

19 (b) Transacting or proposing to transact by a title insurer or a title insurance
 20 agent any of the following activities when conducted or performed in contemplation
 21 of or in conjunction with the issuance of a title insurance report or policy:

22 * * *

23 (vi) Examining titles; however, any title insurance report or title insurance
 24 policy relating to immovable property shall be based upon an examination of ~~title~~
 25 ~~which shall be conducted~~ the public records or a personal examination of an
 26 abstract. Such examinations shall be conducted and title opinion rendered only
 27 by an attorneys duly licensed and authorized to practice law in Louisiana as
 28 provided in R.S. 37:212. The examination and resulting opinion, if it furnishes the
 29 basis of a title insurance report or title insurance policy relating to immovable

1 property, shall be reduced to writing by the attorney. The title opinion shall contain
2 the following:

3 * * *

4 Section 2. R.S. 37:212(A)(2)(d) is hereby amended and reenacted to read as follows:

5 §212. "Practice of law" defined

6 A. The practice of law means and includes:

7 * * *

8 (2) For a consideration, reward, or pecuniary benefit, present or anticipated,
9 direct or indirect;

10 * * *

11 (d) Certifying or giving opinions, **or rendering a title opinion as a basis of**
12 **any title insurance reports as provided in R.S. 22:512(17)**, as it relates to title to
13 immovable property or any interest therein or as to the rank or priority or validity of
14 a lien, privilege or mortgage as well as the preparation of acts of sale, mortgages,
15 credit sales or any acts or other documents passing titles to or encumbering
16 immovable property.

17 * * *

18 Section 3. This Act shall become effective on January 1, 2012.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

Present law provides that a title insurance report may only be issued based on a title opinion rendered by an attorney at law licensed to practice law in this state.

Present law defines "abstract" or "abstract of title" as "a written history, synopsis, or summary of the recorded instruments affecting the title."

Proposed law defines "abstract of title" or "abstract" as a written history, synopsis or summary of the recorded instruments indexed in the public records affecting the title to immovable property that is prepared and certified by the abstractor covering the requisite search periods set forth in present law.

Proposed law requires that the abstract include a photocopy or electronic copy of the recorded instruments or extracts prepared by the abstractor reviewing the records.

Proposed law requires that the abstract be dated and signed by the abstractor and presented for examination to an attorney duly licensed and authorized to practice law in this state as

provided in present law.

Present law provides that the certifying or giving of an opinion to the title of immovable property is defined as the practice of law. Proposed law adds to the definition in present law by providing that rendering a title opinion as a basis for issuing a title insurance report also constitutes the practice of law.

Effective January 1, 2012.

(Amends R.S. 22:512(1) and 17(b)(vi) and R.S. 37:212(A)(2)(d))