

FIRST REGULAR SESSION

HOUSE BILL NO. 414

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RICHARDSON (Sponsor) AND McMANUS (Co-sponsor).

1071L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 381.115, RSMo, and to enact in lieu thereof one new section relating to title agencies and 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Section A. Section 381.115, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 381.115, to read as follows: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 have and maintain 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;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 19 (2) Calculate premiums for a title insurance policy or closing protection letter;
20 (3) Determine insurability;
21 (4) Establish, calculate, or negotiate title charges;
22 (5) Conduct title search or examinations;
23 (6) Execute title insurance policies, commitments, binders or endorsements; or
24 (7) Handle escrows, settlements, or closings.

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

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

37 6. Every title agency licensed in this state shall:

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

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

43 7. A title agency or title agent licensed in this state prior to [the effective date of this
44 chapter] **January 1, 2008**, shall have ninety days after [the effective date of this chapter]
45 **January 1, 2008**, to comply with the requirements of this section.

46 8. If the title insurer, title agency, or title agent delegates the title search to a third party,
47 such as an abstract company, the insurer, agency, or agent must first obtain proof that the third
48 party is operating in compliance with rules and regulations established by the director and the
49 third party shall provide the insurer, agency, or agent with access to and the right to copy all
50 accounts and records maintained by the third party with respect to business placed with the title
51 insurer. Proof from the third party may consist of a signed statement indicating compliance, and
52 shall be effective for a three-year period.

53 9. A violation of any provision under this section is a level three violation under section
54 374.049.