

LEGISLATIVE BILL 1071

Approved by the Governor April 17, 2002

Introduced by Beutler, 28

AN ACT relating to the Abstracters Act; to amend sections 76-537 to 76-539, 76-543, 76-545, and 76-547, Reissue Revised Statutes of Nebraska, and section 76-542, Revised Statutes Supplement, 2000; to define terms; to require resident agents as prescribed; to change provisions relating to fees; to authorize duplicate certificates of registration; to prohibit certain acts by inactive abstracters; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 76-537, Reissue Revised Statutes of Nebraska, is amended to read:

76-537. As used in the Abstracters Act, unless the context otherwise requires:

(1) Abstract of title shall mean means a compilation in orderly arrangement of the materials and facts of record affecting the title to a specific piece of land real property, issued under a certificate certifying to the matters contained in such compilation;

(2) Board shall mean means the Abstracters Board of Examiners;

(3) Business of abstracting shall mean means the making, compiling, and selling of abstracts of title or any part thereof or preparing written reports of title to real property;

(4) Business entity shall mean means a partnership, limited liability company, corporation, or other organizational form developed to conduct business;

(5) Certificate of authority shall mean means the authorization to engage in the business of abstracting in a county in the State of Nebraska granted to an individual or business entity;

(6) Certificate of registration shall mean means the authorization to prepare abstracts of title to real property in any county within the State of Nebraska which is granted to an individual under section 76-543;

(7) Duplicate certificate of registration means a second or subsequent certificate of registration issued in this state for an abstractor who (a) holds an operative certificate of registration and (b) is employed by more than one holder of a certificate of authority;

(8) Inactive abstracter means an abstractor whose certificate of registration is not affiliated with an individual or business entity engaged in the business of abstracting and holding a certificate of authority;

(9) Professional development shall mean means a course of educational instruction, including correspondence courses, designed to maintain and improve the ability of registered abstracters to provide services to the public;

(10) Registered abstractor shall mean means an individual, registered under the Abstracters Act, holding an operative certificate of registration who for a fee or other valuable consideration compiles or certifies abstracts of title or any part thereof to real property in any county within this state or who prepares reports of title; and

(11) Report of title shall mean means any type of summary of facts of record affecting the title to a specific piece of land real property which does not purport to constitute an opinion as to the state of the title and which is prepared by a person other than an attorney licensed to practice law in the State of Nebraska. Report of title shall does not include a title insurance commitment or policy or information or opinions given by a register of deeds in response to inquiries from the public.

Sec. 2. Section 76-538, Reissue Revised Statutes of Nebraska, is amended to read:

76-538. Any person, firm, partnership, limited liability company, association, or corporation individual or business entity engaged in the business of abstracting in Nebraska shall be required to be licensed as required by comply with the Abstracters Act.

Sec. 3. Section 76-539, Reissue Revised Statutes of Nebraska, is amended to read:

76-539. (1) An individual or business entity shall not engage in the business of abstracting in this state unless a certificate of authority has been issued to such individual or business entity.

(2) Every individual or business entity engaged in the business of

abstracting shall be or have in its employ a registered abstracter. Only a registered abstracter may certify abstracts or otherwise attest to the accuracy of abstracts or prepare reports of title. An inactive abstracter shall not, for a fee or other valuable consideration, compile or certify abstracts of title or any part thereof to real property in any county within this state, prepare reports of title, or in any way engage in the business of abstracting.

Sec. 4. Section 76-542, Revised Statutes Supplement, 2000, is amended to read:

76-542. Any ~~person~~ individual desiring to become a registered abstracter shall file an application for registration with the board. Such applicant shall have reached the age of majority, shall not have been convicted of a felony, and shall have at least one year of verified land title-related experience satisfactory to the board. Each applicant for registration shall take the written examination prescribed by section 76-543.

Such application shall be in a form prepared by the board and shall contain the applicant's social security number and such information as may be necessary to assist the board in determining the qualification of the applicant for registration. Each such application shall be accompanied by (1) an application fee of not less than twenty-five dollars or more than one hundred dollars and (2) an examination fee of not less than twenty-five dollars or more than one hundred dollars. The board shall establish such fees based on the administrative costs of the board.

Upon receipt of such application the board shall notify the applicant by mail whether the application has been accepted. If the application has not been accepted, the examination fee shall be returned to the applicant. If the application has been accepted, the applicant shall be notified of the time and place of the next scheduled examination.

The board shall adopt and promulgate rules and regulations necessary to establish the experience standards and administer the examination required for registered abstracters.

Sec. 5. Section 76-543, Reissue Revised Statutes of Nebraska, is amended to read:

76-543. The board shall prescribe a written examination to determine the proficiency of the applicant. If the applicant passes the examination and meets the other requirements of section 76-542, the board shall issue ~~he or she shall be given~~ a certificate of registration designating him or her to be a registered abstracter. If the abstracter has more than one place of employment, the abstracter shall obtain a duplicate certificate of registration for each additional place of employment. ~~A~~ The certificate shall be prominently displayed at ~~the abstracter's~~ each place of employment of such abstracter. If an applicant fails the examination, he or she may reapply for registration by remitting the examination fee. The board shall give the examination at least twice a year.

Sec. 6. Section 76-545, Reissue Revised Statutes of Nebraska, is amended to read:

76-545. Any individual or business entity desiring to engage in the business of abstracting in this state shall make application to the board for a certificate of authority. Such application shall be in a form prepared by the board and shall contain such information as may be necessary to assist the board in determining whether the applicant has complied with the Abstracters Act. Such application shall be accompanied by an application fee of not less than twenty-five dollars or more than one hundred dollars. The board shall establish such fee based on the administrative costs of the board. The applicant shall furnish proof that such applicant is or has employed a registered abstracter and shall provide the name and address of a resident agent for service of process under the act. When this section has been complied with, the board shall issue a certificate of authority in such form as it may prescribe, attesting to the same, and such certificate shall be prominently displayed in the place of business of the applicant.

Sec. 7. Section 76-547, Reissue Revised Statutes of Nebraska, is amended to read:

76-547. ~~All certificates~~ Any certificate of authority or ~~certificate and certificates~~ of registration, including any duplicate certificate of registration, issued pursuant to sections 76-543 and 76-545 shall expire on April 1 of each year irrespective of when issued. ~~Certificates of authority and certificates of registration~~ Such certificates shall be renewed, as provided in this section, for a one-year period upon payment of a renewal fee of not less than twenty-five dollars or more than ~~one~~ two hundred dollars for a certificate of authority and not less than ten dollars or more than ~~thirty~~ one hundred dollars for a certificate of registration or duplicate certificate of registration. The board shall

establish such fee based on the administrative costs of the board. Thirty to sixty days prior to the expiration date of the certificates, the board shall cause a notice of expiration and application for renewal, including a statement for the annual fee for each certificate, to be mailed to each of the holders of such certificates. The notice and application shall be in a form prepared by the board.

The board shall not renew the certificate of registration or duplicate certificate of registration for ~~of~~ any registered abstracter who has failed to complete the professional development requirements set forth in section 76-544, unless the registered abstracter has shown good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown for not completing the professional development requirements, the board shall permit the registered abstracter to make up all outstanding hours of professional development within six months of the renewal of ~~the certificate of registration~~ such certificates. If the hours are not completed in six months, ~~the certificate~~ such certificates shall be revoked.

Sec. 8. Original sections 76-537 to 76-539, 76-543, 76-545, and 76-547, Reissue Revised Statutes of Nebraska, and section 76-542, Revised Statutes Supplement, 2000, are repealed.