

Senate Study Bill 1198

Bill Text

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1 1 Section 1. Section 16.91, subsections 4, 5, 6, and 7, Code
1 2 2001, are amended to read as follows:

1 3 4. Attorneys, abstractors, lenders, closing and escrow
1 4 companies, and mortgage brokers may participate in the title
1 5 guaranty program. Each participating attorney and abstractor
1 6 may be required to pay an annual participation fee to be
1 7 eligible to participate in the title guaranty program. The
1 8 fee, if any, shall be set by the division, subject to the
1 9 approval of the authority.

1 10 5. The participation of abstractors and attorneys shall be
1 11 in accordance with rules established by the division and
1 12 adopted by the authority pursuant to chapter 17A. Each
1 13

~~— participant~~

~~— participating attorney and abstractor shall at all~~

1 14 times maintain liability and other indemnity coverage in
1 15 amounts approved by the division. Upon payment of a claim by
1 16 the division, the division shall be subrogated to the rights
1 17 of the claimant against all persons relating to the claim.

1 18 Additionally, each participating abstractor is required to
1 19 own or lease, and maintain and use in the preparation of
1 20 abstracts, an up-to-date abstract title plant including tract
1 21 indices for real estate for each county in which abstracts are
1 22 prepared for real property titles guaranteed by the division.
1 23 The tract indices shall contain a reference to all instruments
1 24 affecting the real estate which are recorded in the office of
1 25 the county recorder, and shall commence not less than forty
1 26 years prior to the date the abstractor commences participation
1 27 in the title guaranty program. However, a participating
1 28 attorney providing abstract services continuously from
1 29 November 12, 1986, to the date of application, either
1 30 personally or through persons under the attorney's supervision
1 31 and control is exempt from the requirements of this paragraph.
1 32

1 33 The division may waive the requirements of this subsection
1 34 pursuant to an application of an attorney or abstractor which
1 35 shows that the requirements impose a hardship to the attorney
2 1 or abstractor and that the waiver clearly is in the public
2 2 interest or is absolutely necessary to ensure availability of
2 3 title guaranties throughout the state.

2 4 The division may also waive the requirements of this
2 5 subsection pursuant to an application of a participating
2 6 attorney who is not a participating attorney providing
2 7 abstract services continuously from November 12, 1986, if the
2 8 participating attorney is found to be competent to conduct
2 9 title searches and prepare abstracts of title pursuant to
2 10 rules issued by the authority. Waivers granted pursuant to
2 11 this paragraph shall be for a specific county or counties.

2 12 6. Prior to the issuance of a title guaranty, the division
2 13 shall require evidence that an abstract of title to the
2 14 property in question has been brought up-to-date and certified
2 15 by a participating abstractor in a form approved by division
2 16 rules and a title opinion issued by a participating attorney
2 17 in the form approved in the rules stating the attorney's
2 18 opinion as to the title. The division shall require evidence
2 19 of the abstract being brought up-to-date and the abstractor

2 19 shall retain evidence of the abstract as determined by the
2 20 board. The division may establish standards for title
2 21 searches and underwriting procedures and requirements for the
2 22 issuance of a title guaranty in which a title guaranty has
2 23 previously been issued on the property in question.
2 24 7.

~~The attorney rendering a title opinion~~

~~- Participating~~

2 25 attorneys and participating abstractors shall be authorized to
2 26 issue a title guaranty certificate subject to the rules of the
2 27 authority.

2 28 Sec. 2. Section [16.92](#), subsection 1, Code 2001, is amended
2 29 by adding the following new paragraphs after paragraph e:

2 30 NEW PARAGRAPH. ee. "Participating abstractor" means an
2 31 abstractor participating in the title guaranty program
2 32 pursuant to section 16.91.

2 33 NEW PARAGRAPH. ef. "Participating closing and escrow
2 34 company" means a closing and escrow company participating in
2 35 the title guaranty program pursuant to section 16.91.

3 1 NEW PARAGRAPH. eg. "Participating mortgage broker" means
3 2 a mortgage broker participating in the title guaranty program
3 3 pursuant to section 16.91.

3 4 Sec. 3. Section [16.92](#), subsection 1, paragraph g, Code
3 5 2001, is amended to read as follows:

3 6 g. "Real estate lender or closer" means a person licensed
3 7 to regularly lend moneys to be secured by a mortgage on real
3 8 property in this state, a licensed real estate broker,

~~or~~

~~- a~~

3 9 licensed attorney, a participating abstractor, a participating
3 10 closing and escrow company, or a participating mortgage
3 11 broker.

EXPLANATION

3 13 This bill amends provisions of the title guaranty program
3 14 of the title guaranty division of the Iowa finance authority
3 15 relating to standards of and participation in the program.

3 16 The bill provides that attorneys, abstractors, lenders,
3 17 closing and escrow companies, and mortgage brokers may
3 18 participate in the title guaranty program. Currently, only
3 19 attorneys and abstractors can participate in the program. The
3 20 bill provides that each participating attorney and abstractor
3 21 is required to maintain liability and other indemnity
3 22 coverage.

3 23 The bill provides that the title guaranty division, upon
3 24 application by a participating attorney who is not a
3 25 participating attorney providing abstract services
3 26 continuously from November 12, 1986, may waive requirements
3 27 relating to maintaining liability and other indemnity coverage
3 28 and up-to-date abstract plant if the attorney is found to be
3 29 competent to conduct title searches and prepare abstracts of
3 30 title.

3 31 The bill provides that the title guaranty division may
3 32 establish standards for title searches and underwriting
3 33 procedures and requirements for the issuance of a title
3 34 guaranty in which a title guaranty has previously been issued
3 35 on the property in question.

4 1 The bill provides that both participating attorneys and
4 2 abstractors shall be authorized to issue a title guaranty
4 3 certificate.

4 4 The bill adds definitions of "participating abstractor",
4 5 "participating closing and escrow company", and "participating
4 6 mortgage broker" to Code section 16.92 relating to mortgage
4 7 release certificates. The bill provides that participating
4 8 abstractors, participating closing and escrow companies, and
4 9 participating mortgage brokers are included under the

4 10 definition of "real estate lender or closer".
4 11 LSB 1240DP 79
4 12 tm/pj/5