

ACT No. 2011 - 556

2011-11-15

1 HB267
2 126606-4
3 By Representative Hill
4 RFD: Insurance
5 First Read: 22-MAR-11



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ENROLLED, An Act,

Relating to insurance; to permit title insurers to issue closing or settlement protection; to require closing or settlement protection forms to be approved by the Commissioner of Insurance; to specify the fees that may be charged by title insurers for issuing closing or settlement protection; to require notice to real estate purchasers of the availability of closing or settlement protection; and for this purpose to add Section 27-3-6.1 to the Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 27-3-6.1 is added to the Code of Alabama 1975, to read as follows:

§27-3-6.1.

(a) Notwithstanding the provisions of subdivision (3) of Section 27-3-6, Code of Alabama 1975, a title insurer may issue closing or settlement protection to a person who is a party to a transaction in which a title insurance policy will be issued.

(b) The form of closing or settlement protection shall be submitted to and approved by the commissioner.

(c) The closing or settlement protection may indemnify a person only against loss of closing or settlement funds because of one of the following acts of a settlement agent, such as a title insurance agent or other settlement

1 service provider which has been approved by the title insurer
2 for such protection, under the terms and conditions of the
3 closing protection as approved by the commissioner:

4 (1) Theft or misappropriation of settlement funds in
5 connection with a transaction in which a title insurance
6 policy or title insurance policies will be issued by or on
7 behalf of the title insurer issuing the closing or settlement
8 protection, but only to the extent that the theft relates to
9 the status of the title to that interest in land or to the
10 validity, enforceability, and priority of the lien of the
11 mortgage on that interest in land.

12 (2) Failure to comply with the written closing
13 instructions when agreed to by the settlement agent, title
14 agent, or employee of the title insurer, but only to the
15 extent that the failure to follow the instructions relates to
16 the status of the title to that interest in land or the
17 validity, enforceability, and priority of the lien of the
18 mortgage on that interest in land.

19 (d) The fee charged by a title insurer for each
20 party receiving closing protection coverage shall be submitted
21 to and approved by the commissioner and shall not be subject
22 to any agreement requiring a division of fees or premiums
23 collected on behalf of the title insurer. The fee shall be not
24 less than twenty-five dollars (\$25) for each party receiving
25 the benefit of closing protection in the case of a buyer or

1 lender receiving a title insurance policy in connection with
2 the real property transaction giving rise to the issuance of
3 the closing or settlement protection. The fee shall be not
4 less than fifty dollars (\$50) in the case of a seller
5 conveying title or providing owner financing and not receiving
6 a loan policy of title insurance in connection with the real
7 property transaction giving rise to the issuance of the
8 closing or settlement protection.

9 (e) In connection with any transaction involving the
10 purchase or sale of a fee simple or possessory interest in
11 real property in this state in which closing or settlement
12 protection has not been requested by the lender prior to
13 closing, the title insurer shall obtain or cause its agent to
14 obtain, at or before the closing of settlement and
15 disbursement of any funds, a statement in writing from the
16 parties acknowledging that the parties have received a notice
17 that closing or settlement protection may be available in
18 accordance with the guidelines of the title insurer and that
19 the parties do or do not desire to purchase closing
20 protection. The written notice of availability of closing or
21 settlement protection shall contain all of the following:

22 (1) The address or legal description of the
23 property.

1 (2) A disclosure that closing protection may be
2 available in accordance with the guidelines of the title
3 insurer and the fee therefor.

4 (3) A space to indicate the desire of the purchaser
5 to either acquire or decline closing protection.

6 (4) The date the notice is executed by the
7 purchaser.

8 (5) The signature of the purchaser or purchasers.

9 (f) In the event that the statement required in this
10 subsection is not obtained from the purchaser at or before the
11 closing of settlement and disbursement of any funds, the
12 omission may be cured by the title agent or title insurer at
13 any time subsequent to the closing of settlement, but prior to
14 actual or constructive notice of a claim or possible claim
15 which would have been covered by closing or settlement
16 protection by sending a certified letter, return receipt
17 requested, to the last known address of the purchaser, which
18 includes the notification required in this section.

19 (g) A title insurer may not provide any other
20 coverage which purports to indemnify against improper acts or
21 omissions of a person with regard to settlement or closing
22 services.

23 Section 2. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

Kay Ivey

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 07-APR-11.

Greg Pappas
Clerk

Senate

02-JUN-11

Passed

APPROVED *June 9, 2011*
TIME *8:55 am*
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num.....: 2011-556
Bill Num....: H-267