SENATE BILL NO. 2467

AN ACT TO CREATE THE MISSISSIPPI TITLE INSURANCE ACT; TO AMEND SECTION 83-15-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THE SHORT TITLE AND PURPOSE OF THE CHAPTER; TO CREATE NEW SECTION 83-15-2, MISSISSIPPI CODE OF 1972, TO DEFINE TERMS USED IN THE CHAPTER; TO AMEND SECTION 83-15-3, MISSISSIPPI CODE OF 1972, TO RECODIFY THE PROVISIONS OF FORMER SECTION 83-15-1, TO CREATE NEW SECTION 83-15-4, MISSISSIPPI CODE OF 1972, TO RECODIFY THE PROVISIONS OF FORMER SECTION 83-15-3 AND TO REQUIRE STATE RESIDENCY FOR PERSONS OR AGENTS ISSUING TITLE INSURANCE POLICIES; TO CREATE NEW SECTION 83-15-13, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE REBATE OF PREMIUMS; TO CREATE NEW SECTION 83-15-15, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE TIME WITHIN WHICH AN AGENT SHALL ISSUE A TITLE INSURANCE POLICY AFTER THE PREMIUM HAS BEEN COLLECTED; TO CREATE NEW SECTION 83-15-17, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE TIME WITHIN WHICH AN AGENT SHALL REPORT TO THE TITLE INSURER ALL POLICIES ISSUED BY THE AGENCY AND SHALL REMIT PREMIUMS; TO CREATE NEW SECTION 83-15-19, MISSISSIPPI CODE OF 1972, TO REQUIRE APPROVAL OF FORMS BY THE COMMISSIONER OF INSURANCE; TO CREATE NEW SECTION 83-15-21, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DETERMINATION OF INSURABILITY AND THE PRESERVATION OF EVIDENCE OF TITLE SEARCH AND EXAMINATION; TO CREATE NEW SECTION 83-15-23, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A TITLE INSURANCE POLICY MAY NOT BE ISSUED WITHOUT REGARD TO THE POSSIBLE EXISTENCE OF ADVERSE MATTERS OR DEFECTS OF TITLE; TO CREATE NEW SECTION 83-15-25, MISSISSIPPI CODE OF 1972, TO PROHIBIT ILLEGAL DEALINGS IN RISK PREMIUM; TO CREATE NEW SECTION 83-15-27, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICES OF AVAILABILITY OF INSURANCE TO THE PURCHASER/MORTGAGOR; TO CREATE NEW SECTION 83-15-29, MISSISSIPPI CODE OF 1972, TO REQUIRE NOTICES OF AVAILABILITY OF INSURANCE TO THE PURCHASER/MORTGAGOR; TO PROVIDE CONDITIONS UNDER WHICH A TITLE INSURER AND AGENT MAY OPERATE AS AN ESCROW, SETTLEMENT OR CLOSING AGENT; TO CREATE NEW SECTION 83-15-31, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A TITLE INSURANCE POLICY MAY NOT BE ISSUED WITHOUT REGARD TO THE POSSIBLE EXISTENCE OF ADVERSE MATTERS OR DEFECTS OF TITLE; TO CREATE NEW SECTION 83-15-33, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE TRANSACTION OF TITLE INSURANCE IN ADDITION TO ANY OTHER KIND OF INSURANCE; TO AUTHORIZE THE COMMISSIONER TO ADOPT RULES AND REGULATIONS FOR THE PURPOSE OF IMPLEMENTING THE PROVISIONS OF THIS ACT; TO CREATE NEW SECTION 83-15-37, MISSISSIPPI CODE OF 1972, TO PROVIDE ERRORS AND OMISSIONS POLICY REQUIREMENTS; TO CREATE NEW SECTION 83-15-39, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR VIOLATIONS OF THE CHAPTER AND PENALTIES THEREFOR; TO CREATE NEW SECTION 83-15-41, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CHAPTER SHALL NOT BE INTERPRETED AS REGULATING THE PRACTICE OF LAW IN THIS STATE; TO CREATE NEW SECTION 83-15-43, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR SEVERABILITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-15-1, Mississippi Code of 1972, is amended as follows:
83-15-1. **Short title; purpose of act.**

(1) This act shall be known and cited as the Mississippi Title Insurance Act.

(2) The purpose of this act is to set forth certain definitions applicable to title insurance in this state and to provide further for the supervision of the business of title insurance transacted in this state.

(3) This act shall apply to all title insurers and title insurance agents engaged in the business of title insurance in this state.

(4) Except as otherwise expressly provided in this act, except where the context otherwise requires, and except those provisions which are inconsistent with this act, the provisions of Title 83 of the Mississippi Code of 1972, the Mississippi Insurance Code, which apply to title insurance and title insurance companies shall continue to be applicable to the business of title insurance and title insurance companies. No amendment to Title 83 that is enacted after the effective date of this act that is inconsistent with the provisions of this act shall be applicable to the business of title insurance unless the amendment specifically states that it is to be applicable to the business of title insurance.

**SECTION 2.** The following provision shall be codified as Section 83-15-2, Mississippi Code of 1972:

83-15-2. **Definitions.**

For the purposes of this act, the following terms shall have the following meanings:

(a) "Abstract of title" means a compilation or summary, based upon a title search or title examination, of all recorded instruments in the real property records in the county where the property is located of whatever kind or nature that in any manner affect title to a specified parcel of real property.
(b) "Bona fide employee of a title insurer" means an individual who devotes substantially all of his or her time to performing services on behalf of a title insurer and whose compensation for these services is in the form of salary or its equivalent paid by the title insurer.

(c) "Business of title insurance" means insuring, guaranteeing, warranting or indemnifying owners of real property or the holder of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in, or the unmarketability of the title to the property; the invalidity or unenforceability of any liens or encumbrances thereon; or doing any business in substance equivalent to any of the foregoing.

(d) "Commissioner" means the Commissioner of Insurance of the State of Mississippi.

(e) "Certificate of title, title certificate, opinion of title or title opinion" means a written opinion expressing the status of title based upon a title search or title examination, by an abstract company licensed to do business in this state, a licensed abstractor or an attorney at law, who is licensed to practice law in this state, of instruments in the real property records as defined herein, or an abstract thereof affecting title to a specified parcel of real property to ascertain the history and present condition of title to such real property as to its ownership and status with respect to liens, encumbrances, clouds and defects.

(f) "Escrow" means written instruments, money or other items deposited by one party with a depository or escrow agent, for delivery to another party upon the performance of a specified condition or the happening of a certain event.

(g) "Person" means any natural person at least twenty-one (21) years of age and who is domiciled in this state or is a bona fide resident of and resides within this state or any
partnership, association, corporation or other legal entity which has been properly formed under the laws of this state. The term "person" does not include "title insurer," nor does it include the officers and employees of a title insurer.

(h) "Primary title services" means determining insurability in accordance with sound underwriting practices based upon evaluation of a reasonable search and examination of the title, determination and clearance of underwriting objections and requirements to eliminate risk, for the purpose of issuing a title insurance commitment setting forth the requirements to insure, and preparation and issuance of the policy.

(i) "Premium and premium rates" means the charge, as specified by rule of the Commissioner of Insurance, that is made by a title insurer for a title insurance policy, including the charge for performance of primary title services by a title insurer or title insurance agent or agency, and incurring the risks incident to such policy, under the several classifications of title insurance contracts and forms, and upon which charge a premium tax is paid. For the purposes of this chapter, "premium" shall not include expenses for the performance of services such as abstracting, searching and examining titles or obtaining a title opinion; fees for document preparation; fees for handling escrows, settlements or closings; fees incurred to cure defects in the title; and fees incident to the issuance of a commitment to insure title or a title insurance policy.

(j) "Qualified financial institution" means an institution that is:

(i) Organized or, in the case of a U.S. branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state and has been granted authority to operate with fiduciary powers;

(ii) Regulated, supervised and examined by federal or state authorities having regulatory authority over banks; and
(iii) Insured by the appropriate federal entity.

(k) "Real property records" means the recorded instruments affecting title to real property contained within the Office of the Chancery Clerk, Circuit Clerk and Taxing Authorities in the county in which the real property is situated and which includes, but is not limited to:

(i) The indexes to recorded deeds, deeds of trust, construction liens, federal tax liens, judgments and lis pendens; and

(ii) The books, fiche and databases containing electronically stored documents in which recorded instruments affecting title to real property are compiled.

(l) "Reissue premium" means the rate to be charged for an owner's policy or a loan policy of title insurance which insures the interest of a new owner or the interest of a lender in a deed of trust or mortgage on real property when the current owner has had the title to such property insured as owner within the prior ten (10) years.

(m) "Security or security deposit" means funds or other property received by the title insurance agent as collateral to secure an indemnitor's obligation under an indemnity agreement pursuant to which a title insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide coverage in a title insurance policy for a specific title exception to coverage.

(n) "Substitution loan rate premium" means the rate charged for a loan policy of title insurance which insures the interest of a lender in a deed of trust or mortgage on real property which loan is being made to the same borrower by the same lender, secured by the same property, the title to which was insured by a title insurer licensed to be engaged in the business of title insurance in this state in connection with the loan being satisfied.
(o) "Title agent or agent" means any person, other than a bona fide officer or employee of a title insurer, who is authorized in writing by a title insurer to perform the following:

(i) Solicit title insurance business;
(ii) Collect premiums;
(iii) Determine insurability in accordance with underwriting rules, standards and guidelines prescribed by the title insurer;
(iv) Perform primary title services as defined herein; and
(v) Issue title insurance commitments, policies or endorsements of the title insurer.

(p) "Title insurance policy or policy" means a contract insuring or indemnifying owners of, or other persons lawfully interested in, real property or any interest in real property, against loss or damage arising from any or all of the following conditions existing on or before the policy date and not excepted or excluded:

(i) Defects in or liens or encumbrances on the insured title;
(ii) Unmarketability of the insured title;
(iii) Invalidity, lack of priority or unenforceability of liens or encumbrances on the stated property;
(iv) Lack of legal right of access to the land; or
(v) Unenforceability of rights in title to the land.

(q) "Title insurer" means any domestic company organized and authorized to do business under the provisions of Title 83, Chapter 15, for the purpose of conducting the business of title insurance, or any insurer organized under the laws of another state, the District of Columbia, or a foreign country and holding a certificate of authority to transact business in this
state, for the purpose of conducting the business of title
insurance.

(r) "Title search or title examination" means a search
or examination, for an appropriate period of time, of the real
property records as defined herein which impart constructive
notice of matters relating to real property affecting a specified
parcel or parcels of real property for the purpose of determining
its insurability. The search of the real property records as
defined herein relating to matters of title performed in
connection with or incident to the issuance of a preliminary
report, commitment or binder shall be solely for the benefit of
the title insurance company requested to issue its policy or
policies of title insurance.

SECTION 3. Section 83-15-3, Mississippi Code of 1972, is
amended as follows:

83-15-3. **Formation of company.**

Companies may be formed in the same manner provided in this
chapter for the purposes of abstracting title to real estate,
furnishing information in relation thereto, and insuring owners
and others interested therein against loss by reason of
encumbrances and defective titles. Such companies shall be
subject to the provisions of this chapter as regards the manner of
their formation as follows, to wit: Any company, before it shall
issue any policy of insurance or guaranty, shall file with the
insurance commissioner a certified copy of the record of the
certificate of its organization in the Office of the Secretary of
State, and shall obtain from the Commissioner of Insurance his
certificate that it has complied with the laws applicable to it
and is authorized to do such business. Every company which issues
policies of title insurance or guaranty shall, on or before the
first day of March of each year, file in the Office of the
Insurance Commissioner a statement such as he may require, of its
condition and of its affairs for the year ending on the preceding
thirty-first of December, signed and sworn to by its president, secretary, treasurer or one of its directors; and for neglect to file such annual statement shall be liable to the same penalties as are imposed upon insurance companies generally.

SECTION 4. The following provision shall be codified as Section 83-15-4, Mississippi Code of 1972:

83-15-4. Annual license; residency; authority.

(1) The commissioner shall annually license such companies as issue policies of title insurance or contracts of guaranty and issue continuous agent certificates as prescribed in Sections 83-5-73 and 83-17-5, Mississippi Code of 1972, and shall have the same power and authority to visit and examine such companies as he has in the case of domestic insurance companies. But persons licensed as fire insurance agents and persons who are practicing attorneys at law may act as agent for any such company without additional license.

(2) A title insurance policy insuring the interest of an insured in real property in this state shall not be issued by any person or agent unless the person or agent issuing a title insurance policy is domiciled in or is otherwise a bona fide resident of and resides within this state or is a partnership, association, corporation or other legal entity properly organized under the laws of this state. Nothing herein contained shall be construed to prevent a title insurer licensed to do business in this state, or a bona fide employee thereof, from issuing a policy of title insurance in this state.

SECTION 5. The following provision shall be codified as Section 83-15-13, Mississippi Code of 1972:


Premium and premium rates shall not be subject to rebate and the rebate of premiums is expressly prohibited. This, however, does not prohibit a title insurance company from paying or a title
insurance agent from receiving a commission for the performance of "primary title services."

SECTION 6. The following provision shall be codified as Section 83-15-15, Mississippi Code of 1972:

83-15-15. Time within which to issue policy.

Unless a later date is specifically authorized by the title insurer for a particular transaction or unless the title insurance commitment specifies a time for which it is effective or such commitment is renewed or extended by the title insurer, the title agent shall issue to the insured the policy or policies of title insurance for which a premium has been collected within sixty (60) days from the effective date of the policy or in the case of a title insurance commitment having been issued, within sixty (60) days after satisfaction of all requirements and conditions set out in said commitment in accordance with the title insurer's underwriting guidelines. For the purpose of this subsection, the effective date of the policy is defined as the date and time the instrument conveying the interest to be insured is recorded unless the policy to be issued is insuring the interest of the proposed insured by virtue of an instrument recorded in the real property records prior to the time the request or order for title insurance is placed.

SECTION 7. The following provision shall be codified as Section 83-15-17, Mississippi Code of 1972:

83-15-17. Time within which to report policy and remit premiums.

A title insurance agent shall report to the title insurer all title insurance policies issued by the agency and remit to the title insurer that portion of the title insurance premium to be retained by the title insurer within sixty (60) days from the date the policy is issued.

SECTION 8. The following provision shall be codified as Section 83-15-19, Mississippi Code of 1972:

A title insurer may not issue or agree to issue any form of title insurance commitment, title insurance policy, title insurance endorsement, other contract of title insurance or related form until it is filed with and approved by the Commissioner of Insurance. The Commissioner of Insurance may not disapprove a title guaranty or policy form on the ground that it has on it a blank form for an attorney’s opinion on the title.

Any title insurance form not disapproved by the Commissioner of Insurance within sixty (60) days from the date of its filing shall be considered approved and may be used from that date forward.

SECTION 9. The following provision shall be codified as Section 83-15-21, Mississippi Code of 1972:


(1) A title insurer or a title insurance agent may not issue a title insurance commitment, endorsement or title insurance policy until the title insurer or title insurance agent has caused to be conducted a reasonable search and examination of the title and of such other information as may be necessary, and has cause to be made a determination of insurability of title, including endorsement coverages, in accordance with sound underwriting practices.

(2) The title insurer or the title insurance agent shall cause the evidence of the reasonable search and examination of title to be preserved and retained in its files or in the files of its title insurance agent or agencies for a period of not less than seven (7) years after the title insurance commitment, title insurance policy or guaranty of title was issued. The title insurer or agent or agency must produce the evidence required to be maintained by this subsection at its offices upon the demand of the Commissioner of Insurance. Instead of retaining the original
evidence, the title insurer or the title insurance agent or agency may, in the regular course of business, establish a system under which all or part of the evidence is recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original.

(3) The title insurer or its agent or agency must maintain a record of the actual risk premium and related title service charges made for issuance of the policy and any endorsements in its files for a period of not less than seven (7) years. The title insurer, agent or agency must produce the record at its office upon demand of the Commissioner of Insurance.

(4) This section does not apply to an insurer assuming no primary liability in a contract of reinsurance or to an insurer acting as a coinsurer if any other coinsuring insurer has complied with this section.

SECTION 10. The following provision shall be codified as
Section 83-15-23, Mississippi Code of 1972:


A title insurance policy or guarantee of title may not be issued without regard to the possible existence of adverse matters or defects of title.

SECTION 11. The following provision shall be codified as
Section 83-15-25, Mississippi Code of 1972:


A person may not knowingly quote, charge, accept, collect or receive a premium for title insurance other than the premium adopted by the Commissioner of Insurance.

SECTION 12. The following provision shall be codified as
Section 83-15-27, Mississippi Code of 1972:


(1) Subject to the rating provisions of this code, the Commissioner of Insurance shall adopt a rule specifying the
original, reissue and substitution premium rate to be charged in
this state by title insurers for the respective types of title
insurance contracts and, for policies issued through agents and
agencies, the percentage of such premium required to be retained
by the title insurer.

(2) In adopting premium rates, the Commissioner of Insurance
shall give due consideration to the following:

(a) The title insurers loss experience and prospective
loss experience under closing protection letters and policy
liabilities.

(b) A reasonable margin for underwriting profit
sufficient to allow title insurers, agents, and agencies to earn a
rate of return on their capital that will attract and retain
adequate capital investment in the title insurance business and
maintain an efficient title insurance delivery system.

(c) Past expenses and prospective expenses for
administration and handling of risks.

(d) Liability for defalcation.

(e) Other relevant factors.

(3) Rates may be grouped by types of policies and may differ
as to risk assumed under each policy type.

(4) Rates may not be excessive, inadequate or unfairly
discriminatory.

(5) The premium rate applies to each One Thousand Dollars
($1,000.00) of insurance issued to an insured.

(6) The premium rates apply throughout this state.

(7) The Commissioner of Insurance shall in accordance with
the standards provided in subsection (2), review the premium as
needed, but not less frequently than once every three (3) years,
and shall, based upon the review required by this subsection,
revise the premium if the results of the review so warrant. Each
time the Commissioner of Insurance reviews the premium, the
Commissioner of Insurance may charge a fee, not exceeding One
Thousand Dollars ($1,000.00) to each title insurance company authorized to transact the business of title insurance in this state, to offset the cost of the review.

(8) The Commissioner of Insurance may, by rule, require licensees under this chapter to annually submit statistical information, including loss and expense data, as the commissioner determines to be necessary to analyze premium rates, retention rates, and the condition of the title insurance industry.

SECTION 13. The following provision shall be codified as

Section 83-15-29, Mississippi Code of 1972:


(1) A title insurance agent or a title insurer issuing a loan policy of title insurance in conjunction with a mortgage loan made simultaneously with the purchase of all or part of the real property securing the loan, where no owner's title insurance policy has been requested, shall give written notice, on a form approved by the commissioner, to the purchaser/mortgagor at or before the closing of settlement and disbursement of funds. The written notice of availability of owner's title insurance shall contain all of the following:

(a) An explanation that a loan policy of title insurance is to be issued protecting the lender/mortgagee, and that the loan policy of title insurance does not provide title insurance protection to the purchaser/mortgagor as the owner of the property being purchased;

(b) An explanation of the matters a title policy insures against and what possible exposures exist for the purchaser/mortgagor that could be insured against through the purchase of an owner's policy of title insurance;

(c) Space to indicate the desire of the purchaser to either acquire or decline owner's title insurance;

(d) Date the notice is executed by the purchaser; and

(e) Signature of the purchaser or purchasers.
(2) A copy of this notice, signed by the purchaser/mortgagor, shall be retained in the relevant file of the title insurance agent for not less than five (5) years after the effective date of the policy.

(3) In the event that the notice required in this section is not obtained from the purchaser/mortgagor at or before the closing of settlement and disbursement of any funds, the omission may be cured by the title agent or title insurer at any time subsequent to the closing of settlement but prior to actual or constructive notice of a claim or possible claim against the title of the real estate which was the subject of the settlement by sending a certified letter, return receipt requested, to the last known address of the purchaser, which includes the notification required in this section.

SECTION 14. The following provision shall be codified as Section 83-15-31, Mississippi Code of 1972:

83-15-31. Conditions for providing escrow, closing or settlement services, and maintaining escrow and security deposit accounts.

A title insurer and title insurance agent may operate as an escrow, settlement or closing agent, provided that:

(a) All funds deposited with the title insurer or title insurance agent in connection with an escrow, settlement, closing or security deposit shall be submitted for collection to or deposited in a separate fiduciary escrow account or accounts in a qualified financial institution no later than the close of the next business day, in accordance with the following requirements:

(i) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, closing or security deposit agreement and shall be segregated for each depository by escrow, settlement, closing or security deposit in the records of the title insurer or title
insurance agent in a manner that permits the funds to be identified on an individual basis; and

(ii) The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds are accepted.

(b) Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying how and to whom such funds may be disbursed.

(c) Funds held in a security deposit account shall be disbursed only pursuant to a written agreement specifying:

(i) What actions the indemnitor or others shall take to satisfy the indemnitor's obligation under the agreement;

(ii) The duties of the title insurer or title insurance agent with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or the designee of the depositing party; and

(iii) Any other provisions which the parties or the title insurer or title insurance agent may deem appropriate or which the commissioner may require.

(d) Disbursements may be made out of an escrow, settlement or closing account only if deposits in amounts at least equal to the disbursement have first been made directly relating to the transaction disbursed against and if the deposits are in one of the following forms:

(i) Cash;

(ii) Wire transfers such that the funds are unconditionally received by the title insurer or title insurance agent or the insurer's or agent's depository;

(iii) Checks, drafts, negotiable orders of withdrawal, money orders and any other item that has been finally paid before any disbursements;
(iv) A depository check, including a certified check, governed by the provisions of the Federal Expedited Funds Availability Act, 12 USC Section 4001, et seq.;

(v) Credit transfers through the Automated Clearing House, which have been deemed available by the depository institution receiving the credits. The credits must conform to the operating rules established by the National Automated Clearing House Association; or

(vi) Any instrument for which the depository institution gives immediate credit to the account in which the instrument is deposited.

(e) Nothing contained in this section shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction, provided all parties consent to such recording in writing.

SECTION 15. The following provision shall be codified as Section 83-15-33, Mississippi Code of 1972:

83-15-33. Transaction of title insurance and any other kind of insurance prohibited.

(1) An insurer may not transact title insurance and any other kind of insurance in this state.

(2) Subsection (1) does not preclude a title insurer from providing instruments to any prospective insured, in the form and content approved by the Commissioner of Insurance, under which the title insurer assumes liability for loss due to the fraud of, dishonesty of, misappropriation of funds by, or failure to comply with written closing instructions by its contract agents, agencies or approved attorneys in connection with a real property transaction for which the title insurer is to issue a title insurance policy.

SECTION 16. The following provision shall be codified as Section 83-15-35, Mississippi Code of 1972:

The Commissioner of Insurance may adopt rules and regulations for the purpose of implementing the provisions of this act in accordance.

**SECTION 17.** The following provision shall be codified as Section 83-15-37, Mississippi Code of 1972:

83-15-37. **Errors and omissions policy requirements.**

A title insurance policy may not be issued from a title search or a title examination performed by any person, other than a licensed attorney, a title insurance agent, or an employee of a title insurer or of a title insurance agency unless that person has in effect an error and omissions policy that has minimum coverage limits of Two Hundred Fifty Thousand Dollars ($250,000.00) and a deductible that does not exceed Ten Thousand Dollars ($10,000.00).

**SECTION 18.** The following provision shall be codified as Section 83-15-39, Mississippi Code of 1972:

83-15-39. **Violations and penalties.**

(1) Each individual transaction which is in violation of this act or which does not otherwise conform to the requirements of this act shall be considered a violation.

(2) This act shall be enforceable only by the commissioner and does not create any private cause of action or other private legal recourse.

(3) The commissioner may, in his or her discretion, revoke the license or certificate of authority issued to a title agent, revoke the license issued to a title insurer, or impose a fine in an amount not to exceed Five Hundred Dollars ($500.00) for each violation of this act or of any rule or regulation promulgated under this act. No title insurer shall pay, directly or indirectly, any portion of a fine imposed on any agent of the title insurer. In addition, the commissioner may impose a fine in an amount not to exceed Five Thousand Dollars ($5,000.00) per
violation upon a finding that an agent or an insurer willfully or intentionally deviated from the filed rates for that insurer.

SECTION 19. The following provision shall be codified as Section 83-15-41, Mississippi Code of 1972:

83-15-41. Interpretation. This chapter shall not be interpreted or construed as regulating or attempting to regulate the practice of law in this state.

SECTION 20. The following provision shall be codified as Section 83-15-43, Mississippi Code of 1972:

83-15-43. Severability. The provisions of this chapter are severable. If any part of this chapter is declared invalid or unconstitutional, that declaration shall not affect the part of this chapter that remains.

SECTION 21. This act shall take effect and be in force from and after July 1, 2003.