LEGISLATIVE BILL 403

Introduced by Stinner, 48.

Read first time January 13, 2017

Committee: Banking, Commerce and Insurance

A BILL FOR AN ACT relating to the Abstracters Act; to amend sections 76-537, 76-539, 76-542, and 76-543, Reissue Revised Statutes of Nebraska, and sections 76-545 and 76-547, Revised Statutes Cumulative Supplement, 2016; to define a term; to change registration application, examination, and fee requirements as prescribed; to provide for a duplicate certificate of authority; 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 means a compilation in orderly arrangement of the materials and facts of record affecting the title to real property, issued under a certificate certifying to the matters contained in such compilation;

(2) Board means the Abstracters Board of Examiners;

(3) Business of abstracting 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 means a partnership, limited liability company, corporation, or other organizational form developed to conduct business;

(5) Certificate of authority 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 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 authority means a second or subsequent certificate of authority issued in this state to each and every physical office location other than the primary designated physical office location;

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

(9) Inactive abstracter means an abstracter 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;

(10) Professional development 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;

(11) Registered abstracter 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

(12) Report of title means any type of summary of facts of record affecting the title to 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 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 76-539, Reissue Revised Statutes of Nebraska, is amended to read:

76-539 (1) Every individual or business entity who or which engages in the business of abstracting in this state shall have a certificate of authority and pay the fee established in section 76-542 or 76-545.

(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.

(3) 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. 3. Section 76-542, Reissue Revised Statutes of Nebraska, is

amended to read:

76-542 Any 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
established by the board not to exceed of not less than twenty-five
dollars or more than one hundred dollars. The board shall establish such
fees based on the actual administrative costs associated with such
application and examination 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. 4. Section 76-543, Reissue Revised Statutes of Nebraska, is

amended to read:
The board shall prescribe a written examination to determine the proficiency of the applicant. If the applicant passes the examination, pays the fee, and meets the other requirements of section 76-542, the board shall issue 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 apply for obtain a duplicate certificate of registration for each additional place of employment. Upon payment of the fee prescribed in section 76-542, the board shall issue a duplicate certificate of registration to the abstracter. A certificate shall be prominently displayed at 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. 5. Section 76-545, Revised Statutes Cumulative Supplement, 2016, 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 designate if it is a primary office location and contain such other 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 established by the board not to exceed of not less than twenty-five dollars or more than two hundred dollars. The board shall establish such fee based on the actual administrative costs associated with such application 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, including payment of the fee, 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.

If a holder of a certificate of authority who is or has identified a primary physical office within this state also maintains another office or offices, then the holder shall make application for a duplicate certificate of authority, and upon payment of the fee prescribed in this section and proof of employment of a registered abstracter for such secondary office or offices, the board shall issue a duplicate certificate of authority which shall be prominently displayed at such place of business.

Sec. 6. Section 76-547, Revised Statutes Cumulative Supplement, 2016, is amended to read:

76-547 (1) All certificates of authority, including duplicate certificates of authority, issued pursuant to section 76-545 shall expire on April 1 of each even-numbered year irrespective of when issued. Such certificates shall be renewed, as provided in this section, for a two-year period upon payment of a renewal fee established by the board not to exceed of not less than fifty dollars or more than four hundred dollars. The board shall establish such fee based on the actual administrative costs associated with such renewal of the board.

(2) All certificates of registration, including duplicate certificates of registration, issued pursuant to section 76-543 shall expire on April 1 of each even-numbered year irrespective of when issued. Such certificates shall be renewed, as provided in this section, for a two-year period upon payment of a renewal fee established by the board not to exceed of not less than twenty dollars or more than two hundred dollars. The board shall establish such fee based on the actual administrative costs associated with such renewal of the board. The board shall not renew the certificate of registration or duplicate certificate of registration for 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 such certificates. If the hours are not completed in six
months, such certificates shall be revoked.

(3) 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 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.

Sec. 7. Original sections 76-537, 76-539, 76-542, and 76-543,
Reissue Revised Statutes of Nebraska, and sections 76-545 and 76-547,
Revised Statutes Cumulative Supplement, 2016, are repealed.