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

2 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

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

- (1) Theft or misappropriation of settlement funds in connection with a transaction in which a title insurance policy or title insurance policies will be issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land.
- (2) Failure to comply with the written closing instructions when agreed to by the settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.
- (d) The fee charged by a title insurer for each party receiving closing protection coverage shall be submitted to and approved by the commissioner and shall not be subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer. The fee shall be not less than twenty-five dollars (\$25) for each party receiving the benefit of closing protection in the case of a buyer or

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

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

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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

- (3) A space to indicate the desire of the purchaser to either acquire or decline closing protection.
- 6 (4) The date the notice is executed by the 7 purchaser.

- (5) The signature of the purchaser or purchasers.
- (f) In the event that the statement required in this subsection is not obtained from the purchaser 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 which would have been covered by closing or settlement protection by sending a certified letter, return receipt requested, to the last known address of the purchaser, which includes the notification required in this section.
- (g) A title insurer may not provide any other coverage which purports to indemnify against improper acts or omissions of a person with regard to settlement or closing services.
- Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

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4	Speaker of the House of Representatives	
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6	President and Presiding Officer of the Senate	
7	House of Representatives	
8 9 10	I hereby certify that the within Act originated in and was passed by the House 07-APR-11.	
11 12 13	Greg Pappas Clerk	
14		
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16	Senate 02-JUN-11 Pass	ed
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