

CHAPTER 1080

S.B. No. 1075

AN ACT

relating to fees charged for the preparation of instruments affecting title to real property.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. DEFINITION. In this Act, "person" has the meaning given that term by Subdivision (2), Section 311.005, Code Construction Act (Chapter 311, Government Code).

SECTION 2. PROHIBITED ACTS. (a) A person, other than an attorney licensed in this state, may not charge or receive, either directly or indirectly, any compensation for all or any part of the preparation of a legal instrument affecting title to real property, including a deed, deed of trust, note, mortgage, and transfer or release of lien.

(b) This section does not prevent a person from seeking reimbursement for costs incurred by the person to retain a licensed attorney to prepare an instrument.

(c) Nothing in this Act shall be construed to prevent an attorney from paying secretarial, paralegal, or other ordinary and reasonable expenses necessarily and actually incurred by the attorney for the preparation of legal instruments nor does it prevent a person from completing lease or rental forms which have been prepared by an attorney licensed in this state and approved by such attorney for the particular kind of transaction involved, or which have been prepared by the property owner or prepared by an attorney and required by the property owner. The provisions of this Act do not apply to a licensed real estate broker or salesman performing the acts of a real estate broker pursuant to the provisions of The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes).

(d) Cumulative Remedies. The provisions of this Act are not exclusive and in no way limit or restrict the definition of the practice of law contained in the State Bar Act (Article 320a-1, Vernon's Texas Civil Statutes), nor do the provisions of this Act limit or restrict any remedy provided in the State Bar Act or any other law designed to eliminate the unauthorized practice of law by lay persons and lay agencies.

SECTION 3. RECOVERY. A person who pays a fee prohibited by this Act may bring suit for and is entitled to:

- (1) recovery of the fee paid;
- (2) damages equal to three times the fee paid; and
- (3) court costs and reasonable and necessary attorney's fees.

SECTION 4. UNAUTHORIZED PRACTICE OF LAW. A violation of this Act constitutes the unauthorized practice of law and may be enjoined by a court of competent jurisdiction.

**SECTION 5. TRANSITION.** This Act applies only to fees charged or received on or after the effective date of this Act.

**SECTION 6. EFFECTIVE DATE.** This Act takes effect September 1, 1987.

**SECTION 7. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 30, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on June 1, 1987, by a viva-voce vote. Passed the House, with amendment, on May 29, 1987, by a non-record vote.

Approved June 20, 1987

Effective Sept. 1, 1987.