

SENATE BILL 27

IN THE SENATE

January 5, 1979

Introduced.

On motion, Senators Anderson and
Lensink were added as authors to
the pre-filed bill.

Referred to Committee on Judiciary.

April 20, 1979

Died in Committee.

1 SENATE BILL NO. 27
 2 INTRODUCED BY _____
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING ALL LICENSED
 6 TITLE INSURANCE AGENTS TO ISSUE TITLE INSURANCE POLICIES
 7 BASED ON AN ATTORNEY'S OPINION AS TO THE CONDITION OF THE
 8 TITLE; AMENDING SECTION 33-25-103, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 33-25-103, MCA, is amended to read:
 12 "33-25-103. Policy based on title evidence. (1) No
 13 title insurance policy as to property in this state shall be
 14 issued by any insurer unless based upon evidence of the
 15 condition of title certified in writing as of the date of
 16 the policy by some person, firm, or corporation holding a
 17 certificate of authority issued under 37-52-304 to engage in
 18 the title abstracting business in the county in which the
 19 property is located. This provision shall not apply as to
 20 title insurance policies issued upon the basis of an opinion
 21 of an attorney, duly authorized to practice law in this
 22 state, as to the condition of the title following a review
 23 by such attorney of pertinent title records or abstracts and
 24 issued through a licensed title insurance agent who ~~was~~
 25 ~~licensed and was regularly procuring title insurance~~

1 ~~policies issued upon such basis up to January 1, 1961.~~
 2 (2) An insurer issuing any policy in violation of this
 3 section is estopped, as a matter of law, to deny the
 4 validity of the policy as to any claim or demand of the
 5 insured or assigns arising thereunder."

-End-

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1979 Legislature
Code Commissioner Bill - Summary

SENATE Bill No. 27

AN ACT PERMITTING ALL LICENSED TITLE INSURANCE AGENTS TO ISSUE TITLE INSURANCE POLICIES BASED ON AN ATTORNEY'S OPINION AS TO THE CONDITION OF THE TITLE; AMENDING SECTION 33-25-103, MCA.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 33-25-103. Article II, Section 17, 1972 Montana Constitution, is the counterpart of the Fourteenth Amendment to the United States Constitution and states that "No person shall be deprived of life, liberty, or property without due process of law." The constitutional guarantee of equal protection of the laws requires that all persons shall be treated alike under like circumstances and conditions. The Supreme Court declared in 32 St. Rep. 874 that Section 33-25-103, MCA, (section 40-4601, R.C.M. 1947) effectively discriminated between licenciates in an arbitrary manner. Title insurance agents issuing policies on the basis of legal opinions on the [date of enactment] can presumably forever continue to do so, whereas all other title insurance agents must build and have certified an abstract plant. The court declared the law unconstitutional. It is amended to remove the discriminatory provision.