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PENNSYLVANIA STATUTES, ANNOTATED BY LEXISNEXIS(R)

THIS DOCUMENT IS CURRENT THROUGH 2008 ACTS 1-18, 43, AND 44
TITLES 73 AND 74 CURRENT THROUGH ACTS 1-26, 43, AND 44
*** OCTOBER 3, 2008 ANNOTATION SERVICE ***

PENNSYLVANIA STATUTES
TITLE 40. INSURANCE
CHAPTER 2. INSURANCE COMPANIES
ARTICLE VII. TITLE INSURANCE COMPANIES

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40 P.S. § 910-1 (2008)

§ 910-1. Definitions

For the purpose of this article:

(1) "Title insurance" means insuring, guaranteeing or indemnifying against loss or damage suffered by owners of real property or by others interested therein by reason of liens, encumbrances upon, defects in or the unmarketability of the title to said real property; guaranteeing, warranting or otherwise insuring the correctness of searches relating to the title to real property; and doing any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this article.

(2) The "business of title insurance" shall be deemed to be (i) the making as insurer, guarantor or surety, or proposing to make as insurer, guarantor or surety, of any contract or policy of title insurance; (ii) the transacting, or proposing to transact, any phase of title insurance, including solicitation, negotiation preliminary to execution, execution of a contract of title insurance, insuring and transacting matters subsequent to the execution of the contract and arising out of it, including reinsurance; and (iii) the doing, or proposing to do, any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of this article.

(3) "Title insurance company" means any domestic company organized under the provisions of this article for the purpose of insuring titles to real estate, a title insurance company organized under the laws of another state or foreign government and licensed to insure titles to real estate within this Commonwealth pursuant to section 722 of this article, domestic and foreign companies, including any domestic bank or trust company, having the power and authorized to insure titles to real estate within this Commonwealth as to the effective date of this amendment and which meet the requirements of section 710 of this article.

(4) "Applicant for insurance" shall be deemed to include approved attorneys, real estate brokers, real estate salesmen, attorneys at law and all others who from time to time apply to a title insurance company or to an agent of a title insurance company, for title insurance, and who at the time of such application are not agents for a title insurance company.

(5) "Fee" for title insurance means and includes the premium, the examination and settlement or closing fees, and every other charge, whether denominated premium or otherwise, made by a title insurance company, agent of a title insurance company or an approved attorney of a title insurance company, or any of them, to an insured or to an applicant for insurance, for any policy or contract for the issuance of, or an application for any class or kind of, title insurance; but the term "fee" shall not include any charges paid by an insured or by an applicant for insurance, for any policy or contract, to an attorney at law acting as an independent contractor and retained by such attorney at law, whether or not he is acting as an agent of or an approved attorney of a title insurance company, or any charges made for special services not constituting title insurance, even though performed in connection with a title insurance policy or contract.

(6) "Commissioner" means the Insurance Commissioner of the Commonwealth of Pennsylvania.

(7) An "approved attorney" means an attorney at law in good standing upon whose examination of title and report of title thereon a title insurance company may issue a policy of title insurance.

NOTES:

PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.

1. 31 Pa. Code Part VIII, Ch 125 (2008), Part VIII. Miscellaneous Provisions.
2. 31 Pa. Code Part VIII, Ch 126 (2008), Part VIII. Miscellaneous Provisions.

LexisNexis (R) Notes:

CASE NOTES

1. Because the Pennsylvania Title Insurance Companies Act, *40 Pa. Stat. Ann. § 910-1* et seq., did not require the borrower to exhaust her claims, and because the title insurer's agent was the only agent involved in the incident in which borrower was allegedly charged an improper rate for title insurance, the borrower's claims were not subject to dismissal for lack of jurisdiction or failure to

join a necessary party under *Fed. R. Civ. P. 19. Markocki v. Old Republic Nat'l Title Ins. Co.*, 527 F. Supp. 2d 413, 2007 U.S. Dist. LEXIS 86058 (E.D. Pa. 2007).

2. Because the Pennsylvania Title Insurance Companies Act, 40 Pa. Stat. Ann. § 910-1 et seq., did not require the borrower to exhaust her claims, and because the title insurer's agent was the only agent involved in the incident in which borrower was allegedly charged an improper rate for title insurance, the borrower's claims were not subject to dismissal for lack of jurisdiction or failure to join a necessary party under *Fed. R. Civ. P. 19. Markocki v. Old Republic Nat'l Title Ins. Co.*, 527 F. Supp. 2d 413, 2007 U.S. Dist. LEXIS 86058 (E.D. Pa. 2007).

3. Where participants in residential real estate closings filed actions against a title security company and its president under the Title Insurance Companies Act, 40 P.S. §§ 910-1(5) and 910-54(10), and the Unfair Trade Practices Act and Consumer Protection Law, 73 P.S. §§ 201-1 to 201-9.2, the trial court erred in determining that the residential real estate closing participants failed to state a cause of action against the the president in his personal capacity. *Moy v. Schreiber Deed Sec. Co.*, 370 Pa. Super. 97, 535 A.2d 1168, 1988 Pa. Super. LEXIS 22 (1988).

4. Where participants in residential real estate closings filed actions against a title security company and its president under the Title Insurance Companies Act, 40 P.S. §§ 910-1(5) and 910-54(10), and the Unfair Trade Practices Act and Consumer Protection Law, 73 P.S. §§ 201-1 to 201-9.2, the trial court erred in determining that the residential real estate closing participants failed to state a cause of action against the the president in his personal capacity. *Moy v. Schreiber Deed Sec. Co.*, 370 Pa. Super. 97, 535 A.2d 1168, 1988 Pa. Super. LEXIS 22 (1988).

TREATISES AND ANALYTICAL MATERIALS

1. *1 P.L.E. INSURANCE § 245*, Pennsylvania Law Encyclopedia, INSURANCE, § 245 Insurance of Property and Titles in General, Copyright 2006, Matthew Bender & Company, Inc., a member of the LexisNexis Group.

LexisNexis 50 State Surveys, Legislation & Regulations

Title Insurance