

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 682, Page 2, Section 34.030, Line 21, by  
2 inserting after all of said section and line the following:  
3

4 "327.272. 1. A professional land surveyor shall include any person who practices in  
5 Missouri as a professional land surveyor who uses the title of "surveyor" alone or in combination  
6 with any other word or words including, but not limited to "registered", "professional" or "land"  
7 indicating or implying that the person is or holds himself or herself out to be a professional land  
8 surveyor who by word or words, letters, figures, degrees, titles or other descriptions indicates or  
9 implies that the person is a professional land surveyor or is willing or able to practice professional  
10 land surveying or who renders or offers to render, or holds himself or herself out as willing or able  
11 to render, or perform any service or work, the adequate performance of which involves the special  
12 knowledge and application of the principles of land surveying, mathematics, the related physical  
13 and applied sciences, and the relevant requirements of law, all of which are acquired by education,  
14 training, experience and examination, that affect real property rights on, under or above the land and  
15 which service or work involves:

16 (1) The determination, location, relocation, establishment, reestablishment, layout, or  
17 retracing of land boundaries and positions of the United States Public Land Survey System;

18 (2) The monumentation of land boundaries, land boundary corners and corners of the  
19 United States Public Land Survey System;

20 (3) The subdivision of land into smaller tracts and preparation of property descriptions;

21 (4) The survey and location of rights-of-way and easements;

22 (5) Creating, preparing, or modifying electronic or computerized data relative to the  
23 performance of the activities in subdivisions (1) to (4) of this subsection;

24 (6) Consultation, investigation, design surveys, evaluation, planning, design and execution  
25 of surveys;

26 (7) The preparation of any drawings showing the shape, location, dimensions or area of  
27 tracts of land;

28 (8) Monumentation of geodetic control and the determination of their horizontal and  
29 vertical positions;

30 (9) Establishment of state plane coordinates;

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1 (10) Topographic surveys and the determination of the horizontal and vertical location of  
2 any physical features on, under or above the land;

3 (11) The preparation of plats, maps or other drawings showing elevations and the locations  
4 of improvements and the measurement and preparation of drawings showing existing improvements  
5 after construction;

6 (12) Layout of proposed improvements;

7 (13) The determination of azimuths by astronomic observations.

8 2. None of the specific duties listed in subdivisions (4) to (13) of subsection 1 of this section  
9 are exclusive to professional land surveyors unless they affect real property rights. For the purposes  
10 of this section, the term "real property rights" means a recordable interest in real estate as it affects  
11 the location of land boundary lines. The validity of any document prepared between August 27,  
12 2014, and August 28, 2015, by a provider of utility or communications services purporting to affect  
13 real property rights shall remain valid and enforceable notwithstanding that any legal description  
14 contained therein was not prepared by a professional land surveyor.

15 3. Professional land surveyors shall be in responsible charge of all drawings, maps, surveys,  
16 and other work product that can affect the health, safety, and welfare of the public within their scope  
17 of practice.

18 4. Nothing in this section shall be construed to preclude the practice of architecture or  
19 professional engineering or professional landscape architecture as provided in sections 327.091,  
20 327.181, and 327.600.

21 5. Nothing in this section shall preclude a licensed attorney in this state or a licensed title  
22 insurance company, agent, or agency from preparing sketches, conducting investigations into real  
23 estate titles and descriptions, and preparing land or legal descriptions for clients or customers,  
24 provided that the legal description includes the date it was prepared and the name of the preparer,  
25 including the license number and signature, and the parcel is described by aliquot part.

26 381.022. 1. As used in sections 381.011 to 381.412, the following terms mean:

27 (1) "Escrow", written instruments, money or other items deposited by one party with a  
28 depository, escrow agent, or escrowee for delivery to another party upon the performance of a  
29 specified condition or the happening of a certain event;

30 (2) "Qualified depository institution", an institution that is:

31 (a) Organized or, in the case of a United States branch or agency office of a foreign banking  
32 organization, licensed under the laws of the United States or any state and has been granted  
33 authority to operate with fiduciary powers;

34 (b) Regulated, supervised, and examined by federal or state authorities having regulatory  
35 authority over banks and trust companies;

36 (c) Insured by the appropriate federal entity; and

37 (d) Qualified under any additional rules established by the director;

38 (3) "Security" or "security deposit", funds or other property received by the title insurer as  
39 collateral to secure an indemnitor's obligation under an indemnity agreement under which the  
40 insurer is granted a perfected security interest in the collateral in exchange for agreeing to provide  
41 coverage in a title insurance policy for a specific title exception to coverage.

1           2. A title insurer, title agency, or title agent not affiliated with a title agency may operate as  
2 an escrow, security, settlement, or closing agent, provided that all funds deposited with the title  
3 insurer, title agency, or title agent not affiliated with a title agency, pursuant to written instructions  
4 in connection with any escrow, settlement, closing, or security deposit shall be submitted for  
5 collection to or deposited in a separate fiduciary trust account or accounts in a qualified depository  
6 institution no later than the close of the second business day after receipt, in accordance with the  
7 following requirements:

8           (1) The funds regulated under this section shall be the property of the person or persons  
9 entitled to them under the provisions of the escrow, settlement, security deposit, or closing  
10 agreement and shall be segregated for each depository by escrow, settlement, security deposit, or  
11 closing in the records of the title insurer, title agency, or title agent not affiliated with a title agency,  
12 in a manner that permits the funds to be identified on an individual basis and in accordance with the  
13 terms of the individual written instructions or agreements under which the funds were accepted; and

14           (2) The funds shall be applied only in accordance with the terms of the individual written  
15 instructions or agreements under which the funds were accepted.

16           3. It is unlawful for any person to:

17           (1) Commingle personal or any other moneys with escrow funds regulated under this  
18 section;

19           (2) Use such escrow funds to pay or indemnify against debts of the title insurance agent or  
20 of any other person;

21           (3) Use such escrow funds for any purpose other than to fulfill the terms of the individual  
22 written escrow instructions after the necessary conditions of the written escrow instructions have  
23 been met;

24           (4) Disburse any funds held in an escrow account unless the disbursement is made under a  
25 written instruction or agreement specifying under what conditions and to whom such funds may be  
26 disbursed or under an order of a court of competent jurisdiction; or

27           (5) Disburse any funds held in a security deposit account unless the disbursement is made  
28 under a written agreement specifying:

29           (a) What actions the indemnitor shall take to satisfy his or her obligation under the  
30 agreement;

31           (b) The duties of the title insurer, title agency, or title agent not affiliated with a title agency  
32 with respect to disposition of the funds held, including a requirement to maintain evidence of the  
33 disposition of the title exception before any balance may be paid over to the depositing party or his  
34 or her designee; and

35           (c) Any other provisions the director may require by rule or order.

36           4. Notwithstanding the provisions of subsection 3 of this section, any bank credits, bank  
37 services, interest, or similar consideration received on funds deposited in connection with any  
38 escrow, settlement, security deposit, or closing may be retained by the title insurer, title agency, or  
39 title agent not affiliated with a title agency as compensation for administration of the escrow or  
40 security deposit, unless the specific written instructions for the funds or a governing statute provides  
41 otherwise.

1           5. Notwithstanding the provisions of subsection 2 of this section, a title insurer, title agency,  
2 or title agent is not authorized to provide such services as an escrow, security, settlement, or closing  
3 agent in a residential real estate transaction unless as part of the same transaction the title insurer,  
4 title agency, or title agent issues a commitment, binder, or title insurance policy and closing  
5 protection letters have been issued protecting the buyer's, lender's, and the seller's interests, or if a  
6 title insurance policy is not being issued by the title insurer, title agency, or title agent, the title  
7 insurer, the title agency, or title agent has given written notice to the affected person in a title  
8 insurance commitment or on a form approved by rule promulgated by the director that the person's  
9 interest in the closing or settlement is not protected by the title insurer, title agency, or title agent.

10           6. It is unlawful for any title insurer, title agency, or title agent to engage in the handling of  
11 an escrow, settlement or closing of a residential real estate transaction unless the escrow handling,  
12 settlement or closing is conducted or performed in contemplation of and in conjunction with the  
13 issuance of a title insurance policy [or] and a closing protection letter, or if a title insurance policy is  
14 not being issued by the title insurer, title agency, or title agent, prior to the receipt of any funds, the  
15 title insurer, title agency, or title agent clearly discloses to the seller, buyer or lender involved in  
16 such escrow, settlement or closing, that no title insurer is providing any protection for closing or  
17 settlement funds received by the title agency or agent.

18           7. A violation of any provision under this section is a level three violation under section  
19 374.049.

20           381.058. 1. No insurer that transacts any class, type, or kind of business other than title  
21 insurance shall be eligible for the issuance or renewal of a license to transact the business of title  
22 insurance in this state nor shall title insurance be transacted, underwritten, or issued by any insurer  
23 transacting or licensed to transact any other class, type, or kind of business.

24           2. A title insurer shall not engage in the business of guaranteeing payment of the principal  
25 or the interest of bonds or mortgages.

26           3. (1) Notwithstanding subsection 1 of this section or anything else to the contrary in  
27 sections 381.011 to 381.405, a title insurer is expressly authorized to issue closing or settlement  
28 protection letters (and to collect a fee for such issuance) in all transactions where its title insurance  
29 policies are issued and where its issuing agent or agency is performing settlement services and shall  
30 do so in favor of [and upon request by] the applicable buyer, lender, or seller in [such transaction]  
31 all residential real estate transactions. Such closing or settlement protection letter form shall be  
32 filed with the director under section 381.085 and shall conform to the terms of coverage and form of  
33 instrument as required by rule of the director and shall indemnify a buyer, lender, or seller solely  
34 against losses not to exceed the amount of the settlement funds only because of the following acts of  
35 the title insurer's named issuing title agency or title agent:

36           (a) Acts of theft of settlement funds or fraud with regard to settlement funds; and

37           (b) Failure to comply with written closing instructions by the proposed insured when agreed  
38 to by the title agency or title agent relating to title insurance coverage.

39           (2) The rate for issuance of a closing or settlement protection letter in a residential real  
40 estate transaction indemnifying a lessee or purchaser of an interest in land, a borrower, or a lender  
41 secured by a mortgage, including any other security instrument, of an interest in land shall be filed

1 as a rate with the director.

2 (3) The rate for issuance of a closing or settlement protection letter in a residential real  
3 estate transaction indemnifying a seller of an interest in land shall be filed as a separate rate with the  
4 director.

5 (4) Such filed rate shall not be excessive or inadequate. The entire rate for the closing or  
6 settlement protection letter shall be retained by the title insurer.

7 (5) Except as provided under this section or section 381.403, a title insurer shall not provide  
8 any other coverage which purports to indemnify against improper acts or omissions of a person with  
9 regard to escrow, settlement, or closing services."; and

10  
11 Further amend said bill and page, Section 444.1000, Line 29, by inserting after all of said section  
12 and line the following:

13 "486.245. 1. The county clerk shall keep a register, listing the name and address of each  
14 person to whom he awards a notary commission and the date upon which he awards the  
15 commission. Within thirty days after receiving a bond, signature and oath, the county clerk shall  
16 forward the bond, signature and oath to the secretary of state by certified mail. All such bonds,  
17 signatures and oaths shall be preserved permanently by the secretary of state.

18 2. The secretary of state shall maintain a database that includes, but is not limited to,  
19 information that is contained on each notary's seal or any lost seal of a notary public.

20 486.275. 1. At the time of notarization a notary public shall sign his or her official  
21 signature on each notary certificate.

22 2. If a signature or record is required to be notarized, acknowledged, verified, or made  
23 under oath, notwithstanding the provisions of section 486.285 to the contrary, the requirement is  
24 satisfied if the electronic signature of the person authorized to perform such acts, together with all  
25 other information required to be included, is attached to or logically associated with the signature or  
26 record.

27 3. The secretary of state shall promulgate rules to implement the provisions of this section.  
28 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the  
29 authority delegated in this section shall become effective only if it complies with and is subject to  
30 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter  
31 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter  
32 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
33 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
34 August 28, 2016, shall be invalid and void.

35 486.285. 1. (1) A manufacturer of a notary public's seal shall register with the secretary of  
36 state and communicate to the secretary of state when it has issued a seal to a person in this state.  
37 After such communication, the secretary of state shall approve any seal issued by the manufacturer  
38 within ten days.

39 (2) A copy of the notary's commission shall be maintained by such manufacturer.

40 (3) If a manufacturer violates the provisions of this subsection, the manufacturer shall be  
41 subject to a one thousand dollar fine for each violation.

2. Each notary public shall provide, keep, and use a seal which is either an engraved embosser seal or a black inked rubber stamp seal to be used on the document being notarized. The seal shall contain the notary's name exactly as indicated on the commission and the words "Notary Seal", "Notary Public", and "State of Missouri" and, after August 28, 2004, the commission number assigned by the secretary of state, provided that the notary public has been issued a commission number by the secretary of state, all of which shall be in print not smaller than eight-point type.

[2.] 3. The indentations made by the seal embosser or printed by the black inked rubber stamp seal shall not be applied on the notarial certificate or document to be notarized in a manner that will render illegible or incapable of photographic reproduction any of the printed marks or writing on the certificate or document.

[3.] 4. Every notary shall keep an official notarial seal that is the exclusive property of the notary and the seal may not be used by any other person or surrendered to an employer upon termination of employment.

486.305. 1. Any notary public who loses or misplaces his or her journal of notarial acts or official seal shall [forthwith mail or deliver] immediately provide written notice of the fact to the secretary of state. For a lost or misplaced official seal, upon receipt of the written notice, the secretary of state shall issue the notary a new commission number for the notary to order a new seal. The secretary of state may post notice on the secretary of state's website notifying the general public that the lost or misplaced notary seal and commission number of such notary is invalid and is not an acceptable notary commission number.

2. If a notary public's official seal is destroyed, broken, damaged, or otherwise rendered inoperable, the notary shall immediately provide written notice of that fact to the secretary of state.

486.310. 1. If any notary public no longer desires to be a notary public, he or she shall forthwith mail or deliver to the secretary of state a letter of resignation and his or her notary seal, and his or her commission shall thereupon cease to be in effect. The secretary of state may post notice on the secretary of state's website notifying the general public that the notary is no longer a commissioned notary public in the state of Missouri. If a notary public resigns following the receipt of a complaint by the secretary of state regarding the notary public's conduct, the secretary of state may deny any future applications by such person for appointment and commission as a notary public.

2. If any notary public seeks to amend his or her commission, he or she shall forthwith mail or deliver to the secretary of state his or her notary seal unless a person, business, or manufacturer alters the existing seal in compliance with subsection 4 of section 486.285.

486.375. Any person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a misdemeanor and punishable upon conviction by a fine not exceeding five hundred dollars or by imprisonment for not more than six months or both, unless such act results in a fraudulent act involving property, such person shall be guilty of a class E felony."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.