

Arkansas Abstracters' Board

Rules

SECTION 1. PURPOSE

The purpose of this Rule is to implement Ark. Code Ann. §17-11-101 *et seq.* and to set the standards and guidelines for applicants seeking Abstractor licenses in the State of Arkansas.

SECTION 2. AUTHORITY

The authority for this Rule is power given to the Arkansas Abstracters' Board for the State of Arkansas by Ark. Code Ann. §17-11-403(b), and other applicable laws.

SECTION 3. APPLICABILITY AND SCOPE

1. These Rules shall apply to all applicants seeking to become a registered abstractor under the Arkansas Abstracters' Board Act, Ark. Code Ann. § 17-11-302 (a) *et seq.*
2. These Rules shall apply to registered abstracters previously licensed pursuant to the repealed Arkansas Title Insurance Agents' Licensing Act, § 17-11-201 *et seq.* who continue to meet all the residency and other requirements of the Arkansas Abstracters' Board Act and these Rules, effective January 1, 2008.

SECTION 4. OFFICERS AND MEETINGS

1. Officers shall:
 - a. Consist of a chairperson and a secretary/treasurer, each of whom shall have the privilege of re-election.
 - b. Officers shall be elected annually in January, unless otherwise determined by the board.
2. Duties of Officers
 - a. The chairperson shall:
 1. Call and preside at all meetings. In the absence of a chairperson, he/she shall designate a member to preside.
 2. Be custodian of all records or designate a custodian of all records.
 3. Delegate duties to Board members.
 4. Vote on all issues.
 - b. The Secretary/Treasurer shall:
 1. Ensure that accurate minutes of each meeting are kept and distributed to each Board member.
 2. Supervise disbursement of Board funds.

SECTION 5. DUTIES OF THE BOARD

1. The Office of the Arkansas Abstracters' Board shall, in all respects, be deemed to be the Office of the Board. All correspondence and filings shall be addressed or delivered to the Arkansas Abstracters' Board.
2. The Director, who shall be employed by the Board, shall keep a record of all proceedings, transactions, communications and official acts of the Board. The Director shall be custodian of all records, and perform such other duties as the Board may require. Office hours, for the purpose of filing papers, examining public records or transacting any business with the Board or its staff, shall be determined by the Director. When filing or doing any act is required before a certain date, which falls on any Saturday, Sunday or legal holiday, the time for completing said filing or act shall be extended to the next succeeding working day.
3. Any Applicant may be given one opportunity to review his or her test papers in the company of the Director or a member of the Board. Any review by an Applicant shall be scheduled at the discretion of the Director or the Board and in no case shall occur later than three (3) months after the examination date. All public records of the Board shall be open for inspection at any time during the office hours determined by the Director.
4. The action of the majority vote of quorum of the Board shall be deemed the action of the Board of the members of quorum.
5. All meetings of the board, unless otherwise stated in the Rules or Statutes shall be conducted in accordance with Roberts Rules of Order.
6. The location of the office of the Board shall be designated by the Board.

SECTION 6. MEETINGS

1. Special meeting may be called at the discretion of the chairperson, or by two members of the Board, provided that all members are adequately notified.
2. All meetings shall be conducted pursuant to the Arkansas Freedom of Information Act and disciplinary proceedings shall be conducted in accordance with the Arkansas Administrative Procedures Act.

SECTION 7. INFORMATION FOR PUBLIC GUIDANCE

1. The Board makes available a list of persons holding certain responsibilities for handling FOIA requests, licensing questions, and complaints against licensees so that the public may obtain information about the Board or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic

addresses can be obtained from the Board's website.

2. The Board has a list of official forms used by the Board and a list of all formal, written statements of policy and written interpretative memoranda, and orders, decisions and opinions resulting from adjudications, which may be obtained from the Board's office or website.

SECTION 8. DEFINITIONS

1. "Board" shall mean the Arkansas Abstracters' Board.
2. "Rule" shall mean the rules promulgated by the Arkansas Abstracters' Board unless the context requires otherwise.
3. "Abstracter" shall mean a person who verifies the original government survey, which should include gaps and overlaps in land ownership. Given improved technology, surveys have a margin of error of less than one foot. The abstractor must understand the various means of describing the exact boundaries of a piece of land and must recognize unacceptable methods.
4. "Abstract of title" shall mean the various activities affecting ownership of a parcel of land. A title search is conducted to determine that the seller of the property in fact owns the property and has a free-and-clear title. A free-and-clear title has no clouds on it, which means that no person or business other than the seller has an interest in, or claim to, the property.
5. "Person" shall mean any natural person, or any partnership, association, cooperative, corporation, firm, trust, limited liability company, or other legal entity.
6. "Application" shall mean paperwork to be completed by all applicants available from the Board's office.
7. Application "Applicant for a Certificate of Registration" shall be defined as any person desiring to become a registered abstractor, who shall have reached the age of majority, shall have not been convicted of a felony and shall have at least one year of verified land title related experience satisfactory to the Board.
8. "Applicant for a Renewal of a Certificate of Registration" shall be defined as any person who shall have successfully completed and passed a written examination prescribed by Section 14, who shall have been duly issued a Certificate of Registration, and who shall have acquired the required number of professional development credit hours within the prescribed period.
9. "Applicant for Certificate of Authority" shall be defined as any person, firm, partnership, association, corporation or business entity engaged in the business of abstracting as defined by the Act who shall be or have in his, her or its employ

a registered abstractor.

10. "Applicant for a Provisional Certificate of Registration" shall be defined as any person who applies for and is granted a Certificate of Registration that is effective for at least ninety (90) days, or until the Board makes a decision on an application for a reciprocal certificate of registration.
11. "Applicant for a Reciprocal Certificate of Registration" shall be defined as an applicant holding a substantially similar certificate of registration in another United States' jurisdiction who is seeking a certificate of registration in Arkansas.
12. "Applicant for a Temporary Certificate of Registration" shall be defined as any person succeeding to ownership of any abstract plant or business by any means other than by purchase, or any person who by reason of the incapacity of any registered abstractor owner is required to assume operation of the abstract plant or business.
13. "Applicant from a state that does not register appraisers" shall be defined as an applicant who can demonstrate sufficient competency in the field to be registered in Arkansas.
14. "Uniformed Service Veteran" shall be defined as a former member of the United States Uniformed Services discharged under circumstances other than dishonorable.
15. "Proof of land related experience" shall be defined as proof of not less than one year of full time land title related experience which shall be verified and shall be satisfactory to the Board.

SECTION 9. CERTIFICATE OF REGISTRATION – RECIPROCITY AND AUTOMATIC LICENSURE FOR UNIFORMED SERVICE MEMBERS, VETERANS AND SPOUSES

1. An applicant for a reciprocal certificate of registration pursuant to Ark. Code Ann. § 17-1-108(c), (d)(1)(A) shall meet the following requirements:
 - a. The applicant shall hold a substantially similar license in another United States' jurisdiction.
 - i. The applicant shall hold his or her license in good standing;
 - ii. The applicant shall not have had a license revoked for:
 1. An act of bad faith; or
 2. A violation of law, rule, or ethics;
 - iii. The applicant shall not hold a suspended or probationary license in a United States' jurisdiction.
 - b. The applicant shall be sufficiently competent as an appraiser.

2. An applicant for a reciprocal certificate of registration shall submit a fully-executed application, the required fee, and the documentation described below.
 - a. As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:
 - i. Evidence of current and active license in that state.
 - ii. Evidence that the other state's licensure requirements match those listed in Section 10.
 - b. To demonstrate the applicant meets the requirement in Section 9.1 (a) ii. & iii. above, the applicant shall provide the Board with:
 - i. The names of all states in which the applicant is currently licensed or has been previously licensed, and
 - ii. Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant has not had his license revoked for bad faith or a violation of law, rule or ethics and does not hold a license on suspended or probationary status.
 - c. As evidence that the applicant is sufficiently competent, an applicant shall:
 - i. Provide proof of at least one year of verified land title related experience to the Board;
 - ii. Pass a proficiency examination given by the Board; and
 - iii. Provide three (3) letters of recommendation
3. A provisional certificate of registration pursuant to Ark. Code Ann. § 17-1-108 shall be issued immediately upon receipt of:
 - a. An application, the twenty-five dollar (\$25.00) examination fee, and the documentation required under Section 9.2 above.
 - b. The provisional certificate of registration shall be effective for at least ninety (90) days or until the next regularly scheduled examination that can be taken by the applicant and the Board makes a determination on the application.
 - c. After issuance of the provisional certificate of registration, if the Board determines that the applicant does not meet the requirements of Section 9.1(a) or (b) above, the Board may immediately revoke the provisional certificate of registration.
 - d. An applicant may provide the rest of the documentation required above in order to receive a Certificate of Registration, or the applicant may provide only the information necessary for the issuance of a temporary Certificate of Registration.

4. An applicant from a state that does not register appraisers shall meet the following requirements in accordance with Ark. Code Ann. § 17-1-108(d)(2) in order to be registered in Arkansas:
 - a. Demonstrate sufficient competency as an appraiser by providing proof of at least one year of verified land title related experience to the Board;
 - b. Pass a proficiency examination given by the Board;
 - c. Provide three (3) letters of recommendation; and
 - d. Submit a fully-executed application, pay the required fee, and attach the documents described above in Section 9.2.

5. The Board shall grant automatic licensure to an individual who is the holder in good standing of a license with a similar scope of practice issued by another state, territory, or district of the U.S. and is:
 - a. A uniformed service member stationed in the State of Arkansas;
 - b. A uniformed service veteran who resides in or establishes residency in the State of Arkansas; or
 - c. The spouse of:
 - i. A person under Section 9.5 (a) or (b) above;
 - ii. A uniformed service member who is assigned a tour of duty that excludes the uniformed service member's spouse from accompanying the uniformed service member and the spouse relocates to this state; or
 - iii. A uniformed service member who is killed or succumbs to his or her injuries or illness in the line of duty if the spouse establishes residency in the state.

6. The Board shall grant such automatic licensure upon receipt of all the below:
 - a. Payment of the initial licensure fee;
 - b. Evidence that the individual holds a license with a similar scope of practice in another state; and
 - c. Evidence that the applicant is a qualified applicant under Section 9.5.

7. The expiration date of a license for a deployed uniform service member or spouse will be extended for one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

8. A full exemption from professional development credit requirements will be allowed for a deployed uniform service member or spouse until one hundred and eighty (180) days following the date of the uniformed service member's return from deployment.

SECTION 10. CERTIFICATE OF REGISTRATION

1. No Certificate of Registration shall be issued unless an Applicant shall first pass the written examination, as prescribed and specified in accordance with Section

- 14.
2. Application forms for the written examination may be obtained from the office of the Director of the Arkansas Abstracters' Board.
3. Applications must be received by the Director thirty (30) days in advance of the examination date. Applications must be typed or neatly printed in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required.
4. No application for registration as an Abstracter will be accepted unless it is accompanied by a check, draft or money order in a sum which shall include an examination fee of twenty-five dollars (\$25.00).
5. An applicant shall not be admitted to the examination until satisfactory replies have been received from a minimum of three of his or her references.
6. Upon the Applicant passing the examination and meeting the requirements set forth in Section 10, the Board shall issue a Certificate of Registration designating him or her, a Registered Abstracter.
7. A Holder of a Certificate of Registration or Temporary Certificate of Registration shall notify the Director in writing within thirty (30) days of any changes of his or her business address, increase or decrease in the number of places of business and the address(es) of the same.
8. When an Applicant is rejected for any cause, the unsuccessful Applicant shall be notified as promptly as practicable and informed of the reason or reasons for his or her rejection.
9. A temporary certificate of registration pursuant to Ark. Code Ann. §17-11-305 shall be issued after the applicant completes an application and provides proof of land title related experience sufficient to meet the standards established by the Board.
 - a. The fee for a temporary certificate of registration shall be fifteen dollars (\$15.00).
 - b. The temporary certificate of registration shall expire six (6) months after the date it is issued or upon the expiration of sixty (60) days after the next regularly scheduled examination which could be taken by the applicant, whichever period is longer.
 - c. The holder of a temporary certificate of registration will be assessed the twenty-five dollar (\$25.00) examination fee if he or she elects to take the examination.
 - d. The Board shall notify the holder of the temporary certificate of registration of the time and place of the examination by regular U.S. Mail.

10. The Board shall waive the temporary certificate of registration fee if the applicant:
 - a. Is receiving assistance through the Arkansas Medicaid Program; the Supplemental Nutrition Assistance Program; the Special Supplemental Nutrition Program for Women, Infants, and Children; the Temporary Assistance for Needy Families Program; or the Lifeline Assistance Program;
 - b. Was approved for unemployment within the last twelve (12) months; or
 - c. Has an income that does not exceed two hundred percent (200%) of the federal poverty income guidelines.

SECTION 11. CERTIFICATE OF REGISTRATION NOTICE OF ANNUAL FEE

1. Prior to May 1 of each year, the Director shall notify all persons currently registered under the Abstracters' Act of expiration and shall at the same time provide an application for renewal including a statement for the fifty dollar (\$50) annual fee for the following year and that it will be due and payable on or before July 1.
2. Each applicant for renewal must return the Application for Renewal, together with the appropriate fee, to the Director on or before July 1.
3. Any registration which has not been renewed for the next July 1 to July 1 period in any one year will be cancelled on July 31. The Director will immediately remove said registration from the active roster and within thirty (30) days, shall notify said registrant by registered or certified mail of the fact of such cancellation and removal. Nothing contained in this Rule shall be construed as excusing any person, firm, partnership or individual from the provisions of the Act, or the rules and regulations, which prohibit engaging in the business of abstracting contrary to the provisions of said Act.
4. Each applicant must complete the professional development requirements imposed by Section 15 of these rules before the board shall renew the Certificate of Registration.
5. If a Board, in its sole discretion, determines that the applicant has shown good cause for not completing the professional development requirements, the Board shall permit the applicant to make up all outstanding hours of professional development credits within six (6) months of the renewal of the Certificate of Registration. If the credits are not obtained within such six month period, the certificate shall be revoked.
6. After August 1 of each year, any holder of a Certificate of Registration who has not renewed his or her registration will take the written examination prescribed by Section 14, if he or she passes the examination and meets the other requirements of these rules, he or she shall be given a Certificate of Registration.

SECTION 12. CERTIFICATE OF AUTHORITY

1. Applications for a Certificate of Authority may be obtained from the Director of the Arkansas Abstracters' Board.
2. Applications must be typed or neatly printed in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required.
3. No Application for a Certificate of Authority will be accepted unless it is accompanied by the Application Fee in the form of a check, draft or money order in the amount of twenty-five dollars (\$25.00), made payable to the Arkansas Abstracters' Board.
4. Applicant shall furnish proof that such applicant is or has been employed as a registered abstracter, as defined herein.
5. Any holder of a Certificate of Authority shall, within fifteen (15) days of the termination of employment, death or incapacity of any registered abstracter employed by said holder, notify the Director, in writing, of the fact of such termination, death or incapacity. Such holder shall furnish any additional information regarding such termination, death or incapacity as the Board or Director may require.
6. If the termination of employment, death or incapacity of a registered Abstracter leaves the holder of a Certificate of Authority without a Registered Abstracter in its employ, such holder shall immediately cease any business of abstracting and forward it's Certificate of Authority for cancellations. Alternatively, any person to whom Section 10 is applicable may proceed pursuant to that Section to apply for a temporary certificate of registration, in accordance with these Rules.
7. Any holder of a Certificate of Authority shall notify the Director in writing within thirty (30) days of any change of its business address, increase or decrease of places of business and the address (s) of the same.
8. A Certificate of Authority must be publicly displayed at all times.
9. Any firm or entity advertising as an Abstract Company or similar name must have been issued a Certificate of Authority from the Arkansas Abstracters' Board.

SECTION 13. CERTIFICATE OF AUTHORITY NOTICE OF ANNUAL FEE

1. Prior to May 1 of each year, the Director shall notify all persons or business entities currently registered under the Abstracters Act of the expiration and shall provide at the same time an application for renewal, together with a statement for the annual fee for the following year, which fee shall be due and payable on or before July 1 of the same year.
2. Each applicant for renewal must return the Application for renewal, and the appropriate fee to the Director on or before July 1.
3. Any certificate of authority which has not been renewed for the next July 1 to July 1 period in any year will be mailed a notice of cancellation no later than August 1. The Director will immediately remove said Certificate of Authority from the active roster and shall, before August 1, notify the applicant of such cancellation and removal by Registered or certified mail.
4. Any applicant so cancelled may, within sixty (60) days of the date of mailing of the notice of cancellation, reinstate the certificate of authority by submitting a late renewal application. Upon receipt of the annual fee and approval of the application, the Board shall reinstate such Certificate of Authority for the remainder of the year.
5. Upon receipt of the annual fee in the amount of one hundred forty five dollars (\$145.00) for a Certificate of Authority, and upon compliance with all applicable rules, the director of the Board shall issue a Certificate of Authority to each applicant whose registration is in full force. Such renewal shall be for the period beginning July and ending on the next following July 1 unless cancelled, suspended or revoked by the Board.

SECTION 14. EXAMINATIONS

1. Examinations shall be conducted as prescribed in herein, at such times and places as the Board may designate, but shall be given at least twice a year. The Board on its own motion may conduct the examination in a manner which provides security, reduces the risk of cheating or plagiarism and is not in conflict with these rules.
2. The application for registration is a part of the examination. Each applicant must show to the satisfaction of the Board that he or she meets the minimum requirements before he or she will be admitted to any examination. If the application is not accepted, the examination fee, tendered pursuant to Section 10, shall be returned or refunded to the Applicant.
3. Upon receipt of a completed application and the application fee, the Director shall acknowledge the application and advise the applicant that the routing of making

necessary investigations will be followed and that he or she will be notified no later than 30 days before the written examination whether he or she will admit to the examination

4. In the event an Applicant does not appear for either of the two examinations held after he or she has been advised of admittance to the examination, he or she must repeat the application process, including the payment of the prescribed fees, before being permitted to take a subsequent examination.
5. The written examination shall be comprised of two sections, i.e.: legal descriptions; and general knowledge of the practice of abstracting.
6. Each applicant shall submit, as a portion of his or her application, a summary or digest of his or her land title-related experience and training. No person shall be eligible for admittance to the examination until the Board has determined that he or she has demonstrated the minimal experience required by these rules.
7. Any applicant or applicants may be called before the Board for a personal interview.
8. Any applicant, in order to qualify for registration, must pass the examination. Each member of the Board will independently grade the examination and give a grade of "Pass" or "Fail" to the applicant. The Board will determine which applicants have passed or failed the examination. The applicant, the Director or any member of the Board may request that the grade on an examination be reviewed by the Board at a regular meeting. Such request must be delivered in writing to the Director of the Board within sixty (60) days of notification of the grades. The decision of the Board in such reviews will be final.
9. If any applicant fails to pass the examination he or she may be reexamined no sooner than the next regularly-scheduled examination, but no later than two years following the failed examination, upon remittance of the examination fee.
10. Any applicant re-examined will be required to remit the regular examination fee before being admitted to any re-examination.
11. The Board shall have the authority to impose, in its discretion, any further or additional rules or regulations necessary to the efficient and fair administration of the examination, so long as such further or additional rules or regulations do not affect any substantive rights of any applicant.

SECTION 15. PROFESSIONAL DEVELOPMENT

1. Each applicant for renewal of a Certificate of Registration shall certify to the Board that he or she has duly acquired three (3) hours of board approved professional development credits.

2. Professional development credits shall be awarded on the basis of attendance at Board-approved seminars, workshops or correspondence courses which are directly related to the practice of abstracting, at a rate of 1.0 Professional Development Credit for each actual hour of attendance.
 - a. Program sponsors will be required to submit to the Board an outline of each program for which professional development credits is sought. Such outline must be submitted not later than forty five (45) days prior to the date set for presentation of the program. Upon review of the outline and any other information submitted by program sponsors, the Board may approve or disapprove of the number of professional development credit hours sought, or the Board may approve a lesser number of credit hours than originally sought by the program sponsor.
 - b. Program sponsors may request approval of professional development programs for credit in letter form with course outlines, syllabi or other relevant material attached.
 - c. If a program consists of a session of more than one day's duration, the credits may be divided between the days, and credits may be obtained for hours of actual attendance on any day or days of any particular program, unless the granting of partial or divided credits would be achieved only through a break in continuity of subject matter of a particular program.
 - d. Once the Board has approved the professional development program for professional development credits, the program sponsor must mail notice of such program to all registered abstracters within the State of Arkansas at least ten (10) days in advance of the program presentation. The official roster of Registered Abstracters as maintained by the Director shall control. In the event of any controversy regarding mailing of notice to any particular abstractor or abstractors.
 - e. Any correspondence course for which approval of professional development credits is requested will be examined by the Board with strict scrutiny in order to determine, to the extent possible, that integral to such courses are sufficient controls to ensure that the courses are administered in a fair, professional manner, to ensure that the individuals seeking professional development credits actually participate in, and successfully complete, the course for the actual number of hours for which credit is sought.
 - f. **APPEAL OF AWARD OF CREDIT HOURS.** Any program sponsor may request that the Arkansas Abstracters Board review the number of credit hours awarded that sponsor's professional development programs. Such request shall be in writing and shall be received at the Office of the Board of Examiners not later than ten days following the date of mailing, to the

program sponsor, of the original notice of award of credit hours. Upon receipt of a written request for review, the Board of Examiners shall forthwith conduct its review and advise the program sponsor, in writing, of:

1. An award of a greater number of credit hours than originally granted, or;
2. No change in the number of credit hours granted. The Board of Examiners shall complete its review and notification of the program sponsor within ten days of receipt of the sponsor's request for review.
3. Upon completion of an approved professional development program, the program sponsor shall furnish, to each individual who completes said program, a Certificate of Completion showing the name of the individual, the date of the program, and the number of credit hours obtained at the program. Program sponsor shall furnish the Office of the Arkansas Abstracters' Board with an alphabetical list of those abstracters who successfully completed the program.
4. The Board may refuse to grant professional development credit to any abstracter who, within any prescribed two-year professional development credit period, attends more than one program with substantially identical subject matter.

SECTION 16. ANNUAL FEES

1. Annual Renewal fees for each firm are in the amount of one hundred forty five dollars (\$145.00) and due by June 30th of each year.
2. Annual Renewal fees for each individual holding a license under a firm that is already licensed are fifty dollars (\$50.00) per license and due by June 30th of each year.
3. Abstracters who hold an Inactive license can renew each year by June 30th and the amount is fifty dollars (\$50.00.)

SECTION 17. DISCIPLINE

1. After a hearing, the Board may cancel and revoke any certificate of registration issued to any person under the provision of Abstracters' Act or impose alternative sanctions under the Administrative Procedure Act, Ark. Code Ann. §25-15-217:
 - a. For a violation of any provision of the Abstracters' Act;
 - b. Upon conviction of the holder of such a certificate of a crime under Ark. Code Ann. §17-3-102;
 - c. Or if the Board finds the holder guilty of habitual carelessness or of fraudulent practices in the conduct of the business of abstracting.

2. After a hearing, the Board may cancel and revoke any certificate of authority issued to any person, firm or corporation under the provision of Abstracters' Act or impose alternative sanctions under the Administrative Procedure Act, Ark. Code Ann. §25-15-217 for:

 - a. Failure to furnish the bond or bonds, or other securities, required by Ark. Code Ann. §17-11-324;
 - b. Failure to properly maintain an abstract plant;
 - c. Failure to have employed a registered abstracter as provided in Ark. Code Ann. §17-11-301; or
 - d. Otherwise violating any of the provisions of the Abstracters' Act.
3. The Board shall immediately notify in writing the holder of a certificate of registration that the Board has received a verified complaint or that upon its own motion has filed a complaint charging the holder with a violation of any of Section 17.1 or 2 above.
4. Administrative proceedings under this Section shall be conducted under the Administrative Procedure Act, Ark. Code Ann. §25-15-201 *et seq.* and the Abstracters' Act.
5. Upon any cancelation and revocation, expiration or lapse, the abstracter agent license shall be returned to the Board as the property of the State of Arkansas.

SECTION 18. SEVERABILITY

Any section or provision of this Rule held by a court to be invalid or unconstitutional shall not affect the validity of any other section or provision of this Rule.