

ASSEMBLY, No. 303

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BODINE

1 AN ACT concerning certain real estate closings and supplementing  
2 Title 2A of the New Jersey Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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7 1. a. The presence of an attorney is not required at a closing or  
8 settlement of title in a real estate transaction. Each party in the  
9 transaction has the option to be represented by an attorney at the  
10 closing or settlement.

11 b. With regards to the preparation of documents for a real estate  
12 transaction:

13 (1) A real estate broker may order a title search and abstract;

14 (2) An attorney retained by a title company or real estate broker  
15 may prepare conveyance documents; and

16 (3) A title company may remove exceptions from a title policy by  
17 participating in clearing objections to the title.

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19 2. This act shall take effect immediately.

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STATEMENT

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24 Under current practice, real estate closings in the southern portion  
25 of the State generally take place in the office of the title company or  
26 the real estate broker, with no attorney present. Closings are generally  
27 conducted by title clerks, who are employees of the title company.

28 By contrast, closings in the northern portion of the State are  
29 generally conducted by attorneys. Two attorneys -- one representing  
30 the buyer and one representing the seller -- are usually present.

31 This bill would codify the "South Jersey Practice" without affecting  
32 the "North Jersey Practice." The bill provides that the buyer or seller  
33 of real estate has a choice in the matter of retaining an attorney to  
34 represent that party's interests at the closing. The bill provides that an  
35 attorney is not required to be present at a real estate closing, and that

1 it does not constitute the unauthorized practice of law for a title  
2 company to conduct a closing or settlement without the presence of an  
3 attorney. A party could still be represented at the closing by an  
4 attorney if the party chooses to do so.

5 The bill also provides that, as in the "South Jersey Practice," a real  
6 estate broker may order a title search and abstract; an attorney  
7 retained by a title company or real estate broker may prepare  
8 conveyance documents, and a title company may remove exceptions  
9 from a title policy by participating in clearing objections to the title

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14 Provides that an attorney need not be present at the closing of title in  
15 a real estate transaction.