

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Title Insurance Act is amended by changing
5 Sections 3, 5, 12, 14, 14.1, 16, 18, 21, and 23 and by adding
6 Section 18.2 as follows:

7 (215 ILCS 155/3) (from Ch. 73, par. 1403)

8 Sec. 3. As used in this Act, the words and phrases
9 following shall have the following meanings unless the context
10 requires otherwise:

11 (1) "Title insurance business" or "business of title
12 insurance" means:

13 (A) Issuing as insurer or offering to issue as insurer
14 title insurance; and

15 (B) Transacting or proposing to transact one or more of
16 the following activities when conducted or performed in
17 contemplation of or in conjunction with the issuance of
18 title insurance;

19 (i) soliciting or negotiating the issuance of
20 title insurance;

21 (ii) guaranteeing, warranting, or otherwise
22 insuring the correctness of title searches for all
23 instruments affecting titles to real property, any

1 interest in real property, cooperative units and
2 proprietary leases, and for all liens or charges
3 affecting the same;

4 (iii) handling of escrows, settlements, or
5 closings;

6 (iv) executing title insurance policies;

7 (v) effecting contracts of reinsurance;

8 (vi) abstracting, searching, or examining titles;

9 or

10 (vii) issuing insured closing letters or closing
11 protection letters;

12 (C) Guaranteeing, warranting, or insuring searches or
13 examinations of title to real property or any interest in
14 real property, with the exception of preparing an
15 attorney's opinion of title; or

16 (D) Guaranteeing or warranting the status of title as
17 to ownership of or liens on real property and personal
18 property by any person other than the principals to the
19 transaction; or

20 (E) Doing or proposing to do any business substantially
21 equivalent to any of the activities listed in this
22 subsection, provided that the preparation of an attorney's
23 opinion of title pursuant to paragraph (1)(C) is not
24 intended to be within the definition of "title insurance
25 business" or "business of title insurance".

26 (1.5) "Title insurance" means insuring, guaranteeing,

1 warranting, or indemnifying owners of real or personal property
2 or the holders of liens or encumbrances thereon or others
3 interested therein against loss or damage suffered by reason of
4 liens, encumbrances upon, defects in, or the unmarketability of
5 the title to the property; the invalidity or unenforceability
6 of any liens or encumbrances thereon; or doing any business in
7 substance equivalent to any of the foregoing. "Warranting" for
8 purpose of this provision shall not include any warranty
9 contained in instruments of encumbrance or conveyance. Title
10 insurance is a single line form of insurance, also known as
11 monoline. An attorney's opinion of title pursuant to paragraph
12 (1) (C) is not intended to be within the definition of "title
13 insurance".

14 (2) "Title insurance company" means any domestic company
15 organized under the laws of this State for the purpose of
16 conducting the business of title insurance and any title
17 insurance company organized under the laws of another State,
18 the District of Columbia or foreign government and authorized
19 to transact the business of title insurance in this State.

20 (3) "Title insurance agent" means a person, firm,
21 partnership, association, corporation or other legal entity
22 licensed under this Act ~~registered by a title insurance company~~
23 and authorized by a title insurance ~~such~~ company to determine
24 insurability of title in accordance with generally acceptable
25 underwriting rules and standards in reliance on either the
26 public records or a search package prepared from a title plant,

1 or both, and authorized by such title insurance company in
2 addition to do any of the following: act as an escrow agent
3 pursuant to subsections (f), (g), and (h) of Section 16 of this
4 Act, solicit title insurance, collect premiums, or issue title
5 insurance commitments, policies, and endorsements of the title
6 insurance company; provided, however, the term "title
7 insurance agent" shall not include officers and salaried
8 employees of any title insurance company.

9 (4) "Producer of title business" is any person, firm,
10 partnership, association, corporation or other legal entity
11 engaged in this State in the trade, business, occupation or
12 profession of (i) buying or selling interests in real property,
13 (ii) making loans secured by interests in real property, or
14 (iii) acting as broker, agent, attorney, or representative of
15 natural persons or other legal entities that buy or sell
16 interests in real property or that lend money with such
17 interests as security.

18 (5) "Associate" is any firm, association, partnership,
19 corporation or other legal entity organized for profit in which
20 a producer of title business is a director, officer, or partner
21 thereof, or owner of a financial interest, as defined herein,
22 in such entity; any legal entity that controls, is controlled
23 by, or is under common control with a producer of title
24 business; and any natural person or legal entity with whom a
25 producer of title business has any agreement, arrangement, or
26 understanding or pursues any course of conduct the purpose of

1 which is to evade the provisions of this Act.

2 (6) "Financial interest" is any ownership interest, legal
3 or beneficial, except ownership of publicly traded stock.

4 (7) "Refer" means to place or cause to be placed, or to
5 exercise any power or influence over the placing of title
6 business, whether or not the consent or approval of any other
7 person is sought or obtained with respect to the referral.

8 (8) "Escrow Agent" means any title insurance company or any
9 title insurance agent, including independent contractors of
10 either, acting on behalf of a title insurance company, which
11 receives deposits, in trust, of funds or documents, or both,
12 for the purpose of effecting the sale, transfer, encumbrance or
13 lease of real property to be held by such escrow agent until
14 title to the real property that is the subject of the escrow is
15 in a prescribed condition. An escrow agent conducting closings
16 shall be subject to the provisions of paragraphs (1) through
17 (4) of subsection (e) of Section 16 of this Act.

18 (9) "Independent Escrowee" means any firm, person,
19 partnership, association, corporation or other legal entity,
20 other than a title insurance company or a title insurance
21 agent, which receives deposits, in trust, of funds or
22 documents, or both, for the purpose of effecting the sale,
23 transfer, encumbrance or lease of real property to be held by
24 such escrowee until title to the real property that is the
25 subject of the escrow is in a prescribed condition. Federal and
26 State chartered banks, savings and loan associations, credit

1 unions, mortgage bankers, banks or trust companies authorized
2 to do business under the Illinois Corporate Fiduciary Act,
3 licensees under the Consumer Installment Loan Act, real estate
4 brokers licensed pursuant to the Real Estate License Act of
5 2000, as such Acts are now or hereafter amended, and licensed
6 attorneys when engaged in the attorney-client relationship are
7 exempt from the escrow provisions of this Act. "Independent
8 Escrowee" does not include employees or independent
9 contractors of a title insurance company or title insurance
10 agent authorized by a title insurance company to perform
11 closing, escrow, or settlement services.

12 (10) "Single risk" means the insured amount of any title
13 insurance policy, except that where 2 or more title insurance
14 policies are issued simultaneously covering different estates
15 in the same real property, "single risk" means the sum of the
16 insured amounts of all such title insurance policies. Any title
17 insurance policy insuring a mortgage interest, a claim payment
18 under which reduces the insured amount of a fee or leasehold
19 title insurance policy, shall be excluded in computing the
20 amount of a single risk to the extent that the insured amount
21 of the mortgage title insurance policy does not exceed the
22 insured amount of the fee or leasehold title insurance policy.

23 (11) "Department" means the Department of Financial and
24 Professional Regulation.

25 (12) "Secretary" means the Secretary of Financial and
26 Professional Regulation.

1 (13) "Insured closing letter" or "closing protection
2 letter" means an indemnification or undertaking to a party to a
3 real property transaction, from a principal such as a title
4 insurance company, setting forth in writing the extent of the
5 principal's responsibility for intentional misconduct or
6 errors in closing the real property transaction on the part of
7 a settlement agent, such as a title insurance agent or other
8 settlement service provider, or an indemnification or
9 undertaking given by a title insurance company or an
10 independent escrowee setting forth in writing the extent of the
11 title insurance company's or independent escrowee's
12 responsibility to a party to a real property transaction which
13 indemnifies the party against the intentional misconduct or
14 errors in closing the real property transaction on the part of
15 the title insurance company or independent escrowee and
16 includes protection afforded pursuant to subsections (f), (g),
17 and (h) of Section 16, Section 16.1, subsection (h) of Section
18 17, and Section 17.1 of this Act even if such protection is
19 afforded by contract.

20 (14) "Residential real property" means a building or
21 buildings consisting of one to 4 residential units or a
22 residential condominium unit where at least one of the
23 residential units or condominium units is occupied or intended
24 to be occupied as a residence by the purchaser or borrower, or
25 in the event that the purchaser or borrower is the trustee of a
26 trust, by a beneficiary of that trust.

1 (15) "Financial institution" means any bank subject to the
2 Illinois Banking Act, any savings and loan association subject
3 to the Illinois Savings and Loan Act of 1985, any savings bank
4 subject to the Savings Bank Act, any credit union subject to
5 the Illinois Credit Union Act, and any federally chartered
6 commercial bank, savings and loan association, savings bank, or
7 credit union organized and operated in this State pursuant to
8 the laws of the United States.

9 (Source: P.A. 100-485, eff. 9-8-17.)

10 (215 ILCS 155/5) (from Ch. 73, par. 1405)

11 Sec. 5. Certificate of authority required to engage in
12 activities under this Act.

13 (a) It is unlawful for any company to engage or to continue
14 in the business of title insurance without first procuring from
15 the Secretary a certificate of authority stating that the
16 company has complied with the requirements of Section 4 of this
17 Act. An insurer that transacts any class of insurance other
18 than title insurance anywhere in the United States is not
19 eligible for the issuance of a certificate of authority to
20 transact title insurance in this State nor for a renewal of a
21 certificate of authority.

22 (b) It is unlawful for any person, firm, partnership,
23 association, corporation, or other legal entity to act as or
24 hold itself out to be a title insurance agent unless first
25 procuring from the Secretary a certificate of authority subject

1 to the conditions of subsection (a) of Section 16.

2 (Source: P.A. 94-893, eff. 6-20-06.)

3 (215 ILCS 155/12) (from Ch. 73, par. 1412)

4 Sec. 12. Examinations; compliance.

5 (a) The Secretary or his authorized representative shall
6 have the power and authority, and it shall be his duty, to
7 cause to be visited and examined annually any title insurance
8 company doing business under this Act, and to verify and compel
9 compliance with the provisions of law governing it.

10 (b) The Secretary or his authorized representative ~~agent~~
11 shall have power and authority to compel compliance with the
12 provisions of this Act and may visit and ~~shall, only upon the~~
13 ~~showing of good cause,~~ require a title insurance agent or
14 independent escrowee to make appropriate records ~~any title~~
15 ~~insurance company to take all legal means to obtain the~~
16 ~~appropriate records of its registered agents and make them~~
17 available for examination at a time and place designated by the
18 Secretary. ~~Expenses incurred in the course of such examinations~~
19 ~~will be the responsibility of the title insurance company. In~~
20 ~~the event that a present or former registered agent or its~~
21 ~~successor refuses or is unable to cooperate with a title~~
22 ~~insurance company in furnishing the records requested by the~~
23 Secretary or his or her authorized agent, then the Secretary or
24 his or her authorized agent shall have the power and authority
25 to obtain those records directly from the registered agent.

1 (c) The Secretary or the Secretary's authorized
2 representative shall have power and authority to compel an
3 independent escrowee's compliance with the provisions of this
4 Act pursuant to subsection (f) of Section 17 of this Act.

5 (Source: P.A. 94-893, eff. 6-20-06.)

6 (215 ILCS 155/14) (from Ch. 73, par. 1414)

7 Sec. 14. Fees.

8 (a) Every title insurance company and every independent
9 escrowee subject to this Act shall pay the following fees:

10 (1) for filing the original application for a
11 certificate of authority and receiving the deposit
12 required under this Act, \$500;

13 (2) for the certificate of authority, \$10;

14 (3) for every copy of a paper filed in the Department
15 under this Act, \$1 per folio;

16 (4) for affixing the seal of the Department and
17 certifying a copy, \$2; and

18 (5) for filing the annual statement, \$50.

19 (b) Each title insurance company shall remit, ~~for all of~~
20 ~~its title insurance agents subject to this Act for filing an~~
21 ~~annual registration of its agents,~~ an amount equal to \$3 for
22 each policy issued by all of its title insurance agents in the
23 immediately preceding calendar year.

24 (c) Every title insurance agent subject to this Act shall
25 pay the following fees:

1 (1) for a resident of the State, filing the original
2 application for a certification of authority and for the
3 certificate of authority, \$80;

4 (2) for a nonresident of the State, filing the original
5 application for a certification of authority and for the
6 certificate of authority, \$120;

7 (3) for a resident and nonresident of the State, filing
8 for renewal of a certificate, \$80; and

9 (4) for a resident and nonresident of the State, filing
10 for reinstatement of a lapsed certificate, \$120.

11 (Source: P.A. 99-104, eff. 1-1-16.)

12 (215 ILCS 155/14.1)

13 Sec. 14.1. Financial Institution Fund. All moneys received
14 by the Department of Financial and Professional Regulation
15 under this Act shall be deposited in the Financial Institution
16 Fund created under Section 6z-26 of the State Finance Act for
17 expenses incurred in administering this Act.

18 (Source: P.A. 98-463, eff. 8-16-13.)

19 (215 ILCS 155/16) (from Ch. 73, par. 1416)

20 Sec. 16. Title insurance agents.

21 (a) No person, firm, partnership, association, corporation
22 or other legal entity shall act as or hold itself out to be a
23 title insurance agent unless it has been issued a certificate
24 of authority by ~~duly registered by a title insurance company~~

1 ~~with~~ the Secretary. Every title insurance agent registration
2 before or after the effective date of this amendatory Act of
3 the 101st General Assembly shall satisfy the requirements for a
4 certificate of authority under this amendatory Act of the 101st
5 General Assembly until January 1 of the calendar year
6 immediately following the adoption of such rules that the
7 Secretary shall adopt as may be necessary for the
8 administration of granting of the certificates of authority for
9 title insurance agents under this amendatory Act of the 101st
10 General Assembly, and until the related application is either
11 approved or disapproved; the continued recognition of such
12 title insurance agent registrations during this period does not
13 relieve title insurance agents and title insurance companies of
14 their other obligations under this Act before the effective
15 date of this amendatory Act of the 101st General Assembly.

16 (b) Each application for a certificate of authority
17 ~~registration~~ shall be made on a form specified by the Secretary
18 and prepared by each title insurance agent ~~company which the~~
19 ~~agent~~ ~~represents~~. The title insurance agent and company
20 authorizing the agent shall retain the copy of the application
21 and issued certificate of authority ~~forward a copy to the~~
22 ~~Secretary~~.

23 (c) Every applicant for a certificate of authority
24 ~~registration~~, except a firm, partnership, association, limited
25 liability company, or corporation, must be 18 years or more of
26 age.

1 (1) Every applicant for a certificate of authority that
2 is a firm, partnership, association, corporation, or other
3 legal entity shall designate and name at least one
4 individual who (i) has a financial or other beneficial
5 interest in the licensee and (ii) is authorized by at least
6 one title insurance company to determine insurability of
7 title.

8 (2) Included in every application for a certificate of
9 authority registration of a title insurance agent,
10 including a firm, partnership, association, limited
11 liability company, or corporation, shall be an affidavit of
12 the applicant title insurance agent, signed and notarized
13 in front of a notary public, affirming that the applicant
14 and every owner, officer, director, principal, member, or
15 manager of the applicant has never been convicted or pled
16 guilty to any felony or misdemeanor involving a crime of
17 theft or dishonesty or otherwise accurately disclosing any
18 such felony or misdemeanor involving a crime of theft or
19 dishonesty. No person who has had a conviction or pled
20 guilty to any felony or misdemeanor involving theft or
21 dishonesty may be ~~registered by~~ a title insurance agent
22 ~~company~~ without a written notification to the Secretary
23 disclosing the conviction or plea, and no such person may
24 serve as an owner, officer, director, principal, or manager
25 of any ~~registered~~ title insurance agent without the written
26 permission of the Secretary.

1 (3) An applicant for a certificate of authority of a
2 title insurance agent, including a firm, partnership,
3 association, limited liability company, or corporation,
4 shall include an affidavit of the applicant, signed and
5 notarized in front of a notary public, affirming that the
6 applicant is authorized by one or more title insurance
7 companies to determine insurability of title, stating the
8 title insurance company or companies with which it is
9 authorized, and listing the individuals authorized.

10 (4) Every applicant shall obtain and maintain errors
11 and omissions insurance, or its equivalent, in an amount
12 acceptable to the title insurance company authorizing the
13 agent, but in no event in an amount less than \$250,000 per
14 claim and an aggregate limit of \$500,000 with a deductible
15 no greater than \$25,000. A title insurance company shall
16 not provide the insurance directly or indirectly on behalf
17 of a title insurance agent. In the event errors and
18 omissions insurance is unavailable generally, the
19 Department shall adopt rules for alternative methods to
20 comply with this paragraph.

21 (d) A certificate of authority ~~Registration~~ shall be
22 renewed on January 1 every 2 years ~~made annually~~ by a filing
23 with the Secretary; supplemental filings ~~registrations~~ for a
24 new agency agreement with a title insurance company ~~agents~~ to
25 be added between certificate of authority renewal ~~annual~~
26 filings shall be made by the title insurance agent from time to

1 time in the manner provided by the Secretary; certificates of
2 authority ~~registrations~~ shall remain in effect unless revoked
3 or suspended by the Secretary or voluntarily withdrawn by the
4 title insurance agent, registrant or the title insurance agent
5 no longer has any agency agreement with a title insurance
6 company.

7 (e) Funds deposited in connection with any escrows,
8 settlements, or closings shall be deposited in a separate
9 fiduciary trust account or accounts in a bank or other
10 financial institution insured by an agency of the federal
11 government unless the instructions provide otherwise. The
12 funds shall be the property of the person or persons entitled
13 thereto under the provisions of the escrow, settlement, or
14 closing and shall be segregated by escrow, settlement, or
15 closing in the records of the escrow agent. The funds shall not
16 be subject to any debts of the escrowee and shall be used only
17 in accordance with the terms of the individual escrow,
18 settlement, or closing under which the funds were accepted.

19 Interest received on funds deposited with the escrow agent
20 in connection with any escrow, settlement, or closing shall be
21 paid to the depositing party unless the instructions provide
22 otherwise.

23 The escrow agent shall maintain separate records of all
24 receipts and disbursements of escrow, settlement, or closing
25 funds.

26 The escrow agent shall comply with any rules adopted by the

1 Secretary pertaining to escrow, settlement, or closing
2 transactions.

3 (f) A title insurance agent shall not act as an escrow
4 agent in a nonresidential real property transaction where the
5 amount of settlement funds on deposit with the escrow agent is
6 less than \$2,000,000 or in a residential real property
7 transaction unless the title insurance agent, title insurance
8 company, or another authorized title insurance agent has
9 committed for the issuance of title insurance in that
10 transaction and the title insurance agent is authorized to act
11 as an escrow agent on behalf of the title insurance company for
12 which the commitment for title insurance has been issued. The
13 authorization under the preceding sentence shall be given
14 either (1) by an agency contract with the title insurance
15 company which contract, in compliance with the requirements set
16 forth in subsection (g) of this Section, authorizes the title
17 insurance agent to act as an escrow agent on behalf of the
18 title insurance company or (2) by a closing protection letter
19 in compliance with the requirements set forth in Section 16.1
20 of this Act, issued by the title insurance company to the
21 seller, buyer, borrower, and lender. A closing protection
22 letter shall not be issued by a title insurance agent. The
23 provisions of this subsection (f) shall not apply to the
24 authority of a title insurance agent to act as an escrow agent
25 under subsection (g) of Section 17 of this Act.

26 (g) If an agency contract between the title insurance

1 company and the title insurance agent is the source of the
2 authority under subsection (f) of this Section for a title
3 insurance agent to act as escrow agent for a real property
4 transaction, then the agency contract shall provide for no less
5 protection from the title insurance company to all parties to
6 the real property transaction than the title insurance company
7 would have provided to those parties had the title insurance
8 company issued a closing protection letter in conformity with
9 Section 16.1 of this Act.

10 (h) A title insurance company shall be liable for the acts
11 or omissions of its title insurance agent as an escrow agent if
12 the title insurance company has authorized the title insurance
13 agent under subsections (f) and (g) of this Section 16 and only
14 to the extent of the liability undertaken by the title
15 insurance company in the agency agreement or closing protection
16 letter. The liability, if any, of the title insurance agent to
17 the title insurance company for acts and omissions of the title
18 insurance agent as an escrow agent shall not be limited or
19 otherwise modified because the title insurance company has
20 provided closing protection to a party or parties to a real
21 property transaction escrow, settlement, or closing. The
22 escrow agent shall not charge a fee for protection provided by
23 a title insurance company to parties to real property
24 transactions under subsections (f) and (g) of this Section 16
25 and Section 16.1, but shall collect from the parties the fee
26 charged by the title insurance company and shall promptly remit

1 the fee to the title insurance company. The title insurance
2 company may charge the parties a reasonable fee for protection
3 provided pursuant to subsections (f) and (g) of this Section 16
4 and Section 16.1 and shall not pay any portion of the fee to
5 the escrow agent. The payment of any portion of the fee to the
6 escrow agent by the title insurance company, shall be deemed a
7 prohibited inducement or compensation in violation of Section
8 24 of this Act.

9 (i) The Secretary shall adopt and amend such rules as may
10 be required for the proper administration and enforcement of
11 this Section 16 consistent with the federal Real Estate
12 Settlement Procedures Act and Section 24 of this Act.

13 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15; 99-104,
14 eff. 1-1-16.)

15 (215 ILCS 155/18) (from Ch. 73, par. 1418)

16 Sec. 18. Disclosure of financial interests ~~No referral~~
17 ~~payments; kickbacks.~~

18 (a) Application of this Section is limited to residential
19 properties of 4 or fewer units, at least one of which units is
20 occupied or to be occupied by an owner, legal or beneficial.

21 (b) No title insurance company, independent escrowee, or
22 title insurance agent may issue a title insurance policy to, or
23 provide services to an applicant if it knows or has reason to
24 believe that the applicant was referred to it by any producer
25 of title business or by any associate of such producer, where

1 the producer, the associate, or both, have a financial interest
2 in the title insurance company, independent escrowee, or title
3 insurance agent to which business is referred unless the
4 producer has disclosed to any party paying for the products or
5 services, or his representative, the financial interest of the
6 producer of title business or associate referring the title
7 business and a disclosure of an estimate of those charges to be
8 paid as described in Section 19. Such disclosure must be made
9 in writing on forms prescribed by the Secretary prior to the
10 time that the commitment for title insurance is issued. The
11 title insurance company, independent escrowee, or title
12 insurance agent shall maintain the disclosure forms for a
13 period of 3 years.

14 (c) Each title insurance company, independent escrowee,
15 and title insurance agent shall file with the Secretary, on
16 forms prescribed by the Secretary, reports setting forth the
17 names and addresses of those persons, if any, who have had a
18 financial interest in the title insurance company, independent
19 escrowee, or title insurance agent during the calendar year,
20 who are known or reasonably believed by the title insurance
21 company, independent escrowee, or title insurance agent to be
22 producers of title business or associates of producers.

23 (1) Each title insurance company and independent
24 escrowee shall file the report required under this
25 subsection with its application for a certificate of
26 authority and at any time there is a change in the

1 information provided in the last report.

2 (2) Each title insurance agent shall file the report
3 required under this subsection with its title insurance
4 company for inclusion with its application for
5 registration and at any time there is a change in the
6 information provided in its last report.

7 (3) Each title insurance company, independent
8 escrowee, or title insurance agent doing business on the
9 effective date of this Act shall file the report required
10 under this subsection within 90 days after such effective
11 date.

12 (Source: P.A. 94-893, eff. 6-20-06.)

13 (215 ILCS 155/18.2 new)

14 Sec. 18.2. Rate and service fee filings.

15 (a) Rate and service fee filing requirements.

16 (1) Every title insurance company shall file with the
17 Secretary every manual of classifications, rules, plans,
18 forms, and schedules of fees and every modification of any
19 of the foregoing relating to the rates that it proposes to
20 use. Every such filing shall state the proposed effective
21 date and shall indicate the character and extent of the
22 coverage contemplated. Every title insurance company and
23 independent escrowee shall file with the Secretary the
24 specification of services and schedule of fees for each fee
25 intended to be charged to the parties to a transaction

1 pursuant to paragraph (5) of subsection (k) of this
2 Section.

3 (2) A title insurance company may satisfy its
4 obligations to make such filings by becoming a member of,
5 or a subscriber to, a licensed rating organization that
6 makes such filings and by authorizing the Secretary to
7 accept such filings on its behalf.

8 (3) The Secretary shall make such review of the filings
9 as may be necessary to carry out the provisions of this Act
10 and either approve or disapprove a filing or any part of a
11 filing, including the proposed effective date.

12 (4) Subject to the provisions of paragraphs (5) and (6)
13 and either approval or disapproval of the Secretary, each
14 filing shall be on file for a period of 30 days before it
15 can become effective only by approval of the Secretary. The
16 Secretary may, upon written notice to the person making the
17 filing within the 30-day period, extend the period no more
18 than 30 days to enable the Secretary to complete the review
19 of the filing. Further extensions of the waiting period may
20 be made with the consent of the title insurance company or
21 rating organization making the filing. Upon written
22 application by the title insurance company or rating
23 organization making the filing, the Secretary may
24 authorize a filing or any part of a filing to become
25 effective before the expiration of the waiting period or
26 any extension.

1 (5) When the Secretary finds that any rate for a
2 particular kind or class of risk cannot practicably be
3 filed before it is used, or any contract or kind of title
4 insurance, by reason of rarity or peculiar circumstances,
5 does not lend itself to advance determination and filing of
6 rates, the Secretary may permit the rates to be used
7 without a previous filing and waiting period, and such
8 rates can be effective only by approval of the Secretary.

9 (6) A rate in excess of a filing may be used on any
10 specific risk upon the written consent of the insured,
11 filed with the Secretary, explaining the applicability of
12 the rate to the specific risk; the rate becomes effective
13 when the consent is filed.

14 (b) Justification for rates. A rate filing shall be
15 accompanied by a statement of the title insurance company or
16 rating organization making the filing setting forth the basis
17 upon which the rate was fixed and the fees are to be computed.
18 Any filing may be justified by:

19 (1) the experience or judgment of the title insurance
20 company or rating organization making the filing;

21 (2) the experience of other title insurance companies
22 or rating organizations; or

23 (3) any other factors that the title insurance company
24 or rating organization deems relevant.

25 (c) Making of rates.

26 (1) In making rates, due consideration shall be given

1 to past and prospective loss experience, to exposure to
2 loss, to underwriting practice and judgment, to the extent
3 appropriate, to past and prospective expenses, the
4 expenses incurred by title insurance companies, to a
5 reasonable margin for profit and contingencies, and to all
6 other relevant factors both within and outside of this
7 State.

8 (2) Rates shall not be inadequate or unfairly
9 discriminatory, nor shall rates be excessive; that is, such
10 as to permit title insurance companies to earn a greater
11 profit, after payment of all taxes upon all income, than is
12 necessary to enable them to earn over the years sufficient
13 amounts to pay their actual expenses and losses arising in
14 the conduct of their title insurance business, including
15 the actual costs of maintaining a title plant, plus a
16 reasonable profit.

17 (3) In ascertaining the estimated future earnings of
18 title insurance companies, the Secretary shall utilize a
19 properly weighted cross section of title insurance
20 companies operating in this State representative of the
21 average of normally efficiently operated title insurance
22 companies including on a weighted basis, both title
23 insurance companies having their own title plants, and
24 those not operating upon the title plant system. In
25 ascertaining what is a reasonable profit after payment of
26 all taxes on such income, the Secretary shall give due

1 consideration to the following matters:

2 (A) the average rates of profit after payment of
3 taxes on all income earned by other industry generally;

4 (B) the desirability for stability of rate
5 structure;

6 (C) the necessity of insuring through growth in
7 assets in times of high business activity, the
8 financial solvency of title insurance companies in
9 times of economic depression; and

10 (D) The necessity for earning sufficient dividends
11 on the stock of title insurance companies to induce
12 capital to be invested in title insurance companies.

13 (4) The systems of expense provisions and the amount of
14 expense charged against each class of contract or policy
15 may vary between title insurance companies. Rates may, in
16 the discretion of any title insurance company, be less than
17 the cost of performing the work in the case of smaller
18 insurances, and the excess may be charged against the
19 larger insurances without rendering the rates unfairly
20 discriminatory.

21 (d) Disapproval of filings. If the Secretary finds that the
22 filing or a part of the filing does not meet the requirements
23 of this Act, the Secretary shall issue an order specifying in
24 what respects it fails to meet the requirements of this Act. If
25 the filing or part of the filing already has become effective,
26 the order shall also state when, within a reasonable period,

1 such filing or part shall be deemed no longer effective. A
2 title insurance company or rating organization shall have the
3 right at any time to withdraw a filing or a part of the filing,
4 subject to the provisions of subsection (f) of this Section
5 regarding deviations. Copies of the order shall be sent to
6 every such title insurance company and rating organization. The
7 order shall not affect any contract or policy made or issued
8 prior to the expiration of the period set forth in the order.

9 (e) Rating organizations.

10 (1) A corporation, an unincorporated association, a
11 partnership, or an individual, whether located within or
12 outside this State, may make application to the Secretary
13 for a license as a rating organization for title insurance
14 companies.

15 (A) An entity seeking a license as a rating
16 organization shall file:

17 (i) a copy of its constitution, its articles of
18 agreement or association or its certificate of
19 incorporation, and of its bylaws, rules, and
20 regulations governing the conduct of its business;

21 (ii) a list of its members and subscribers;

22 (iii) the name and address of a resident of
23 this State upon whom notices or orders of the
24 Secretary or process affecting such rating
25 organization may be served; and

26 (iv) a statement of its qualifications as a

1 rating organization.

2 (B) If the Secretary finds that the applicant is
3 competent, trustworthy, and otherwise qualified to act
4 as a rating organization, and that its constitution,
5 articles of agreement or association or certificate of
6 incorporation, and its bylaws, rules, and regulations
7 governing the conduct of its business conforms to the
8 requirements of law, the Secretary shall issue a
9 license authorizing the applicant to act as a rating
10 organization for title insurance. Every such
11 application shall be granted or denied in whole or in
12 part by the Secretary within 60 days after the date of
13 its filing. Licenses issued under this Section shall
14 remain in effect for 3 years unless sooner suspended or
15 revoked by the Secretary or withdrawn by the licensee.
16 The fee for the license shall be \$25. Licenses issued
17 under this Section may be suspended or revoked by the
18 Secretary, after hearing upon notice, in the event the
19 rating organization ceases to meet the requirements of
20 this subsection.

21 (C) Every rating organization shall notify the
22 Secretary promptly of every change in:

23 (i) its constitution, its articles of
24 agreement or association or its certificate of
25 incorporation, and its bylaws, rules, and
26 regulations governing the conduct of its business;

1 (ii) its list of members and subscribers; and

2 (iii) the name and address of the resident of
3 this State designated by it upon whom notices or
4 orders of the Secretary or process affecting such
5 rating organization may be served.

6 (2) Subject to rules adopted by the Secretary, each
7 rating organization shall permit any title insurance
8 company not a member to be a subscriber to its rating
9 services. Each rating organization shall furnish its
10 rating services without discrimination to its members and
11 subscribers. The furnishing of rating services without
12 discrimination to its members and subscribers, or the
13 refusal of any rating organization to admit a title
14 insurance company as a subscriber, shall, at the request of
15 any subscriber or any such title insurance company, be
16 reviewed by the Secretary at a hearing held upon at least
17 10 days' written notice to such rating organization and to
18 such subscriber or title insurance company. If the
19 Secretary finds that the actions of the rating organization
20 were discriminatory, the Secretary shall order that such
21 actions cease. If the rating organization fails to grant or
22 reject an application of a title insurance company for
23 subscribership within 30 days after it was made, the title
24 insurance company may request a review by the Secretary as
25 if the application had been rejected. If the Secretary
26 finds that the title insurance company has been refused

1 admittance to the rating organization as a subscriber
2 without justification, the Secretary shall order the
3 rating organization to admit the title insurance company as
4 a subscriber. If the Secretary finds that the action of the
5 rating organization was justified, the Secretary shall
6 make an order affirming its action.

7 (3) Cooperation among rating organizations, or among
8 rating organizations and title insurance companies, and
9 concert of action among title insurance companies under the
10 same general management and control in rate making or in
11 other matters within the scope of this Act is hereby
12 authorized, provided that the filings are subject to all
13 the provisions of this Act that are applicable to filings
14 generally. The Secretary may review such activities and
15 practices and if, after a hearing, the Secretary finds that
16 any such activity or practice is unfair or unreasonable or
17 otherwise inconsistent with the provisions of this Act, the
18 Secretary may issue a written order specifying in what
19 respects such activity or practice is unfair or
20 unreasonable or otherwise inconsistent with the provisions
21 of this Act and requiring the discontinuance of such
22 activity or practice.

23 (f) Deviations. Every member of or subscriber to a rating
24 organization shall adhere to the filings made on its behalf by
25 such organization, except that any title insurance company that
26 is a member of or subscriber to a rating organization may file

1 with the Secretary a decrease or increase to be applied to any
2 or all elements of the fees produced by the rating system so
3 filed for a class of title insurance that is found by the
4 Secretary to be a proper rating unit for the application of
5 such uniform decrease or increase, or to be applied to the
6 rates for a particular area. Such deviation filing shall
7 specify the basis for the modification and shall be accompanied
8 by the data or historical pattern upon which the applicant
9 relies. A copy of the filing and data shall be sent
10 simultaneously to such rating organization. Any such deviation
11 filing shall be on file for a waiting period of 30 days before
12 it becomes effective. The Secretary shall make such review of
13 the deviation filing as may be necessary to carry out the
14 provisions of this Act, and either approve or disapprove the
15 filing or any part of the filing, including the proposed
16 effective date. Extension of the waiting period may be made in
17 the same manner that the period is extended in the case of rate
18 filings. Upon written application of the person making the
19 filing, the Secretary may authorize a deviation filing or any
20 part of the filing to become effective before the expiration of
21 the waiting period or any extension. Deviation filings shall be
22 subject to the provisions of subsection (d) of this Section.
23 Each deviation shall be effective for at least one year after
24 the date such deviation is approved unless terminated sooner
25 with the approval of the Secretary, or in accordance with the
26 provisions of subsection (d) of this Section.

1 (g) Examinations of rating organizations. The Secretary
2 shall, at least once in 5 years, make or cause to be made an
3 examination of a rating organization licensed under this Act in
4 this State. The reasonable costs of the examination shall be
5 paid by the rating organization examined upon presentation to
6 it of a detailed account of such costs. The officers, managers,
7 agents, and employees of the rating organization may be
8 examined at any time under oath and shall exhibit all books,
9 records, accounts, documents, or agreements governing its
10 method of operation. The Secretary shall furnish 2 copies of
11 the examination report to the organization examined and shall
12 notify such organization that it may, within 20 days, request a
13 hearing on the report or on any facts or recommendations
14 contained in the report. Before filing the report for public
15 inspection, the Secretary shall grant a hearing to the
16 organization examined. The report of the examination, when
17 filed for public inspection, shall be admissible in evidence in
18 any action or proceeding brought by the Secretary against the
19 organization examined, or its officers or agents, and shall be
20 prima facie evidence of facts stated in the report. The
21 Secretary may withhold the report of the examination from
22 public inspection for such time as the Secretary may deem
23 proper. In lieu of the examination, the Secretary may accept
24 the report of an examination made by the title insurance
25 supervisory official of another state pursuant to the laws of
26 that state.

1 (h) Rate administration.

2 (1) The Secretary shall adopt reasonable rules and
3 statistical plans, reasonably adapted to each of the rating
4 systems on file with the Secretary, which may be modified
5 from time to time, and which shall be used by each title
6 insurance company in the recording and reporting of the
7 composition of its business, its loss and countrywide
8 expense experience and those of its title insurance
9 underwriters in order that the experience of all title
10 insurance companies may be made available, at least
11 annually, in such form and detail as may be necessary to
12 aid the Secretary in determining whether rating systems
13 comply with the standards set forth in this Act. The rules
14 and plans may also provide for the recording and reporting
15 of expense experience items that are specially applicable
16 to this State and are not susceptible of determination by a
17 prorating of countrywide expense experience. In adopting
18 the rules and plans, the Secretary shall give due
19 consideration to the rating systems on file with the
20 Secretary, and in order that the rules and plans may be as
21 uniform as is practicable among the several states, to the
22 rules and to form of the plans used for such rating systems
23 in other states. The rules and plans shall not place an
24 unreasonable burden of expense on any title insurance
25 company. No title insurance company shall be required to
26 record or report its expense and loss experience on a

1 classification basis that is inconsistent with the rating
2 system filed by it, nor shall any title insurance company
3 be required to report its experience to any agency of which
4 it is not a member or subscriber. The Secretary may
5 designate one or more rating organizations or other
6 agencies to assist the Secretary in gathering such
7 experience and making compilations, and such compilations
8 shall be made available, subject to reasonable rules
9 adopted by the Secretary, to title insurance companies and
10 rating organizations.

11 (2) Reasonable rules and plans may be adopted by the
12 Secretary for the interchange of data necessary for the
13 application of rating plans.

14 (3) In order to further uniform administration of rate
15 regulatory laws, the Secretary and every title insurance
16 company and rating organization may exchange information
17 and experience data with title insurance supervisory
18 officials, title insurance companies, and title insurance
19 rating organizations in other states, and may consult with
20 them with respect to rate making and the application of
21 rating systems.

22 (4) In addition to any powers expressly enumerated in
23 this Act, the Secretary shall have full power and
24 authority, and it shall be their duty, to enforce and carry
25 out by rules, orders, or otherwise the provisions of this
26 Act and the full intent. The Secretary may adopt rules

1 consistent with this Act as may be necessary or proper in
2 the exercise of his or her powers or for the performance of
3 his or her duties under this Act.

4 (i) False or misleading information. No person or
5 organization shall willfully withhold information from or
6 knowingly give false or misleading information to the
7 Secretary, any statistical agency designated by the Secretary,
8 any rating organization, or any title insurance company that
9 will affect the rates or fees chargeable under this Act.

10 (j) Penalties.

11 (1) The Secretary may, if the Secretary finds that any
12 person or organization has violated any provision of this
13 Section, impose a penalty of not more than \$500 for each
14 such violation, but if the Secretary finds such violation
15 to be willful, the Secretary may impose a penalty of not
16 more than \$5,000 for each such violation. Such penalties
17 may be in addition to any other penalty provided by law.

18 (2) The Secretary may suspend the license of a rating
19 organization or the certificate of authority of a title
20 insurance company that fails to comply with an order of the
21 Secretary within the time limited by such order, or any
22 extension that the Secretary may grant. The Secretary shall
23 not suspend the license of any rating organization or the
24 certificate of authority of a title insurance company for
25 failure to comply with an order until the time prescribed
26 for an appeal has expired or, if an appeal has been taken,

1 until such order has been affirmed. The Secretary may
2 determine when a suspension of license shall become
3 effective, and it shall remain in effect for the period
4 fixed by the Secretary, unless the Secretary modifies or
5 rescinds the suspension, or until the order upon which the
6 suspension is based is modified, rescinded, or reversed.

7 (3) No penalty shall be imposed and no license or
8 certificate of authority shall be suspended or revoked
9 pursuant to this Section except upon a written order of the
10 Secretary stating his or her findings made after a hearing
11 held upon not less than 10 days' written notice to the
12 holder specifying the alleged violation.

13 (4) All hearings provided for in this Section shall be
14 conducted, and the decision of the Secretary on the issue
15 or filing involved shall be rendered, in accordance with
16 the Administrative Review Law.

17 (k) In all circumstances, whether involving rates filed by
18 a rating organization or title insurance company:

19 (1) separate filings shall be provided for the 2
20 following geographic zones:

21 (A) Zone 1 comprising the counties of Cook, Lake,
22 DuPage, McHenry, Kane, Will, Grundy, and Kendall; and

23 (B) Zone 2 comprising all other counties within the
24 State.

25 The Secretary shall submit a report to the Governor and
26 General Assembly no later than January 1, 2023 as to

1 whether multiple zones are justified based on differences
2 in costs between the zones.

3 (2) Rates shall be separated into classes based on
4 monetary insurance ranges without distinction of
5 commercial or residential use of the property.

6 (3) From the owner's policy premium, loan policy
7 premium, and residential real property endorsement
8 charges, which does not include closing protection letter
9 charges, a title agent shall retain 80% and remit 20% to a
10 title insurance company if services are performed by the
11 title insurance agent to at least (i) determine
12 insurability of title, which includes title examination
13 and title clearance, and (ii) issue title insurance
14 commitments, policies, and endorsements. For endorsement
15 charges that are not for residential real property as
16 defined in Section 3 of this Act, which does not include
17 closing protection letter charges, a title agent shall
18 retain 80% and remit 20% to a title insurance company
19 provided the title agent is authorized pursuant to its
20 agency contract to issue the endorsement and completes the
21 work necessary to issue the endorsement. If the title agent
22 is not authorized pursuant to its agency agreement to issue
23 the endorsement and does not complete the work necessary to
24 issue the endorsement, the title agent shall retain 0% and
25 remit 100% of the charge to a title insurance company.

26 (4) Any fees charged to the parties to the transaction

1 other than the owner's policy premium, loan policy premium,
2 and endorsement charges shall not be retained or remitted
3 between a title insurance company and title insurance
4 agent, or with any other entity or individual, unless the
5 charges are being retained or remitted in an amount
6 directly related to services actually performed.

7 (5) Subject to all other provisions of this Section
8 regarding rate filing requirements, a filing shall also
9 include a specification of services to be performed and
10 schedule of fees for each fee intended to be charged to the
11 parties to the transaction, which includes, but is not
12 limited to, closing fees, escrow fees, settlement fees,
13 closing protection letter fees subject to Section 16.1 of
14 this Act, and like charges, and is applicable to services
15 provided by an independent escrowee, which must similarly
16 file a specification of services and schedule of fees with
17 the Secretary.

18 (215 ILCS 155/21) (from Ch. 73, par. 1421)

19 Sec. 21. Regulatory action.

20 (a) The Secretary may refuse to grant, and may suspend or
21 revoke, any certificate of authority, registration, or license
22 issued pursuant to this Act or may impose a fine for a
23 violation of this Act if he determines that the holder of or
24 applicant for such certificate, registration, or license:

25 (1) has intentionally made a material misstatement or

1 fraudulent misrepresentation in relation to a matter
2 covered by this Act;

3 (2) has misappropriated or tortiously converted to its
4 own use, or illegally withheld, monies held in a fiduciary
5 capacity;

6 (3) has demonstrated untrustworthiness or incompetency
7 in transacting the business of guaranteeing titles to real
8 estate in such a manner as to endanger the public;

9 (4) has materially misrepresented the terms or
10 conditions of contracts or agreements to which it is a
11 party;

12 (5) has paid any commissions, discounts or any part of
13 its premiums, fees or other charges to any person in
14 violation of any State or federal law or regulations or
15 opinion letters issued under the federal Real Estate
16 Settlement Procedures Act of 1974;

17 (5.1) has accepted or referred a title order or
18 performed title services with knowledge that the order was
19 placed in exchange for the express or implicit promise that
20 a consumer has been or will be referred to that provider
21 for services;

22 (5.2) has given or accepted any portion of any charge
23 made or received for the rendering of a real estate
24 settlement service in connection with a transaction other
25 than for services actually performed;

26 (5.3) has disbursed funds prior to the actual delivery

1 of funds acceptable to the closing and settlement services
2 agent;

3 (5.4) has disbursed of closing and settlement services
4 funds before all necessary conditions of the transaction
5 have been met;

6 (5.5) has paid for, furnished or offered to pay for or
7 furnish any reward or compensation for any past, present,
8 or future title insurance business or closing and
9 settlement services or any other title business,
10 including, but not limited to, the payment of a fee to an
11 attorney for the referral of title business;

12 (5.6) has paid or offered to pay any fee to a producer
13 of title business for making an inspection or appraisal of
14 property;

15 (5.7) has received securities of the title insurance
16 company, title insurance agent, or independent escrowee at
17 prices below the normal market price, or bonds or
18 debentures that guarantee a higher than normal interest
19 rate, whether or not the consummation of the transaction is
20 directly or indirectly related to the number of closing and
21 settlement services or title orders coming to the title
22 insurance company, title insurance agent or independent
23 escrowee through the efforts of that person;

24 (5.8) has furnished to any producer of title business
25 or associate of a producer reports containing publicly
26 recorded information, appraisals, estimates of income

1 production potential, information kits, or similar
2 packages containing information about one or more parcels
3 of real property helpful to any producer of title business
4 without making a charge that is commensurate with the
5 actual cost of the work performed and the material
6 furnished; Additionally:

7 (A) There must be a written service agreement
8 between a title agent and any entity providing any
9 closing, title, or ancillary related services on
10 behalf of a title agent. Pursuant to this written
11 service agreement, a service fee must be charged to the
12 title agent and paid by the title agent to the service
13 provider. The service fee charge is in addition to any
14 search fee charged to the title agent and cannot be
15 added on to the charges to the seller, buyer, borrower,
16 or lender. The charge for a service fee shall be no
17 less than \$350; and

18 (B) Pursuant to an agency agreement or service
19 agreement, the cost of searches procured on behalf of
20 the title agent must be charged to the title agent and
21 paid by the title agent to the provider of such
22 searches in an amount commensurate with the actual cost
23 of the work performed and the material furnished. The
24 search fee charge is in addition to any service fee
25 charged to the title agent and cannot be added on to
26 the charges to the seller, buyer, borrower, or lender.

1 (5.9) has made or guaranteed or has offered to make or
2 guarantee, either directly or indirectly, any loan to any
3 producer of title business or associate of a producer with
4 terms more favorable than otherwise available to the
5 producer;

6 (5.10) has guaranteed, or offered to guarantee the
7 proper performance of closing and settlement services or
8 undertakings that are to be performed by any producer of
9 title business, except as authorized pursuant to Sections
10 16 and 16.1 of this Act;

11 (5.11) has provided, or offered to provide, either
12 directly or indirectly, a compensating balance or deposit
13 in a lending institution either for the express or implied
14 purpose of influencing the placement or channeling of title
15 insurance business by the lending institution; this
16 provision does not prohibit the maintenance by a title
17 insurance company, title agent, or independent escrowee of
18 demand deposits or escrow deposits that are reasonably
19 necessary for use in the ordinary course of the business of
20 the title insurance company, title agent, or independent
21 escrowee;

22 (5.12) has paid for or offered to pay for the fees or
23 charges of an outside professional, such as an attorney,
24 engineer, appraiser, or surveyor, whose services are
25 required by any producer of title business to structure or
26 complete a particular transaction;

1 (5.13) has provided or offered to provide non-title
2 services, such as computerized bookkeeping, forms
3 management, computer programming, or any similar benefit,
4 without a charge that is commensurate with the actual cost
5 to any producer of title business or to any associate of a
6 producer of title business;

7 (5.14) has furnished or offered to furnish all or any
8 part of the time or productive effort of any employee of
9 the title insurance company, title insurance agent, or
10 independent escrowee, such as office manager, escrow
11 officer, secretary, clerk, or messenger, to any producer of
12 the title business or associate of a producer of title
13 business;

14 (5.15) has paid for or offered to pay for all or any
15 part of the salary of an employee of any producer of title
16 business;

17 (5.16) has paid for or offered to pay for the salary or
18 any part of the salary of a relative of any producer of
19 title business if that payment is in excess of the
20 reasonable value of work performed by the relative on
21 behalf of the title insurance company, title insurance
22 agent or independent escrowee;

23 (5.17) has paid for or offered to pay for services by
24 any producer of title business that are ordinarily to be
25 performed by the producer of title business in his or her
26 licensed capacity as a real estate or mortgage broker or

1 salesman or agent;

2 (5.18) has furnished or offered to furnish, or paid for
3 or offered to pay for, furniture, office supplies,
4 telephones, facsimile machines, equipment, or automobiles
5 to any producer of title business, or has paid for or
6 offered to pay for any portion of the cost of renting,
7 leasing, operating or maintaining any of these items;

8 (5.19) has paid for, furnished, or waived, or offered
9 to pay for, furnish, or waive, all or any part of the rent
10 for space occupied by any producer of title business;

11 (5.20) has rented or offered to rent space from any
12 producer of title business, regardless of the purpose, at a
13 rent that is excessive when compared with rents for
14 comparable space in the geographic area, or has paid or
15 offered to pay rent based in whole or in part on the volume
16 of business generated by any producer of title business;

17 (5.21) has paid for or offered to pay for gifts,
18 vacations, business trips, convention expenses, travel
19 expenses, membership fees, registration fees, lodging, or
20 meals on behalf of a producer of title insurance, directly
21 or indirectly, or supplied letters of credit, credit cards,
22 or any such benefits;

23 (5.22) has paid for or offered to pay for the
24 cancellation fee for a title report or other fee on behalf
25 of any producer of title business either before or after
26 inducing the producer of title business to cancel an order

1 with another title insurance company, title insurance
2 agent, or independent escrowee;

3 (5.23) has paid for, furnished, or offered to pay for
4 or furnish any business form to any producer of title
5 business, other than a form regularly used in the conduct
6 of the title insurance company's business, that is
7 furnished for the convenience of the title insurance
8 company and does not constitute a direct monetary benefit
9 to any producer of title business;

10 (5.24) has given trading stamps, cash redemption
11 coupons, or similar items to any producer of title
12 business;

13 (6) has failed to comply with the deposit and reserve
14 requirements of this Act or any other requirements of this
15 Act;

16 (7) has committed fraud or misrepresentation in
17 applying for or procuring any certificate of authority,
18 registration, or license issued pursuant to this Act;

19 (8) has a conviction or plea of guilty or plea of nolo
20 contendere in this State or any other jurisdiction to (i)
21 any felony or (ii) a misdemeanor, an essential element of
22 which is dishonesty or fraud or larceny, embezzlement, or
23 obtaining money, property, or credit by false pretenses or
24 by means of a confidence game;

25 (9) has been disciplined by another state, the District
26 of Columbia, a territory, foreign nation, a governmental

1 agency, or any entity authorized to impose discipline if at
2 least one of the grounds for that discipline is the same as
3 or equivalent to one of the grounds for which a title
4 insurance company, title insurance agent, or independent
5 escrowee may be disciplined under this Act or if at least
6 one of the grounds for that discipline involves dishonesty;
7 a certified copy of the record of the action by the other
8 state or jurisdiction shall be prima facie evidence
9 thereof;

10 (10) has advertising that is inaccurate, misleading,
11 or contrary to the provisions of this Act;

12 (11) has knowingly and willfully made any substantial
13 misrepresentation or untruthful advertising;

14 (12) has made any false promises of a character likely
15 to influence, persuade, or induce;

16 (13) has knowingly failed to account for or remit any
17 money or documents coming into the possession of a title
18 insurance company, title insurance agent, or independent
19 escrowee that belong to others;

20 (14) has engaged in dishonorable, unethical, or
21 unprofessional conduct of a character likely to deceive,
22 defraud, or harm the public;

23 (15) has violated the terms of a disciplinary order
24 issued by the Department;

25 (16) has disregarded or violated any provision of this
26 Act or the published rules adopted by the Department to

1 enforce this Act or has aided or abetted any individual,
2 partnership, registered limited liability partnership,
3 limited liability company, or corporation in disregarding
4 any provision of this Act or the published rules; or

5 (17) has acted as a title insurance company, title
6 insurance agent, or independent escrowee without a
7 certificate of authority, registration, or license after
8 the title insurance company, title insurance agent, or
9 independent escrowee's certificate of authority,
10 registration, or license was inoperative.

11 (a-1) Nothing in subsection (a) shall be construed as
12 prohibiting:

13 (1) publishing or printing and disseminating any
14 educational information, notwithstanding that the
15 information may be of benefit to a producer of title
16 business;

17 (2) distributing information, whether printed or oral,
18 advertising novelties, and gift items not to exceed \$25 in
19 value that bear the name of the giver (but not the name of
20 the recipient) to producers of title business;

21 (3) providing reasonable promotional and educational
22 activities that are not conditioned on the referral of
23 business and that do not involve the defraying of expenses
24 that otherwise would be incurred by persons in a position
25 to refer settlement services or business incident to those
26 services, such as a reception by a title company, seminars

1 on title matters offered to professionals, furnishing
2 property descriptions and names of record owners without
3 charge to lenders, real estate brokers, attorneys, or
4 others, or distribution of calendars and other promotional
5 material that do not exceed \$25 in value;

6 (4) the payment of a fee:

7 (A) that bears a reasonable relationship to the
8 value of the services rendered or performed:

9 (i) by any person or party to attorneys at law
10 for services actually rendered;

11 (ii) by a title company to its duly appointed
12 agent for services actually performed in the
13 issuance of a policy of title insurance; or

14 (iii) by a lender to its duly appointed agent
15 for services actually performed in the making of a
16 loan; and

17 (B) to a settlement service provider for services
18 outside of the normal scope of that provider's services
19 to the parties to the transaction;

20 (5) the payment of a bona fide salary or compensation
21 or other payment for goods or facilities actually furnished
22 or for services actually performed, so long as the salary,
23 compensation, or other payment bears a reasonable
24 relationship to the value of the services, goods, or
25 facilities;

26 (6) proportionate returns on an ownership or franchise

1 interest;
2 (7) ordinary and customary business entertainment or
3 promotional activities with reasonable frequency not to
4 exceed \$100 in value per person, per event by title
5 insurance companies, title insurance agents, or
6 independent escrowees that are not directly or indirectly
7 consideration as an inducement or compensation for the
8 referral of title business or for the referral of any
9 escrow or other service from a title insurance company,
10 title insurance agent, or independent escrowee.

11 (b) In every case where a registration or certificate is
12 suspended or revoked, or an application for a registration or
13 certificate or renewal thereof is refused, the Secretary shall
14 serve notice of his action, including a statement of the
15 reasons for his action, as provided by this Act. When a notice
16 of suspension or revocation of a certificate of authority is
17 given to a title insurance company, the Secretary shall also
18 notify all the registered agents of that title insurance
19 company of the Secretary's action.

20 (c) In the case of a refusal to issue or renew a
21 certificate or accept a registration, the applicant or
22 registrant may request in writing, within 30 days after the
23 date of service, a hearing. In the case of a refusal to renew,
24 the expiring registration or certificate shall be deemed to
25 continue in force until 30 days after the service of the notice
26 of refusal to renew, or if a hearing is requested during that

1 period, until a final order is entered pursuant to such
2 hearing.

3 (d) The suspension or revocation of a registration or
4 certificate shall take effect upon service of notice thereof.
5 The holder of any such suspended registration or certificate
6 may request in writing, within 30 days of such service, a
7 hearing.

8 (e) In cases of suspension or revocation of registration
9 pursuant to subsection (a), the Secretary may, in the public
10 interest, issue an order of suspension or revocation which
11 shall take effect upon service of notification thereof. Such
12 order shall become final 60 days from the date of service
13 unless the registrant requests in writing, within such 60 days,
14 a formal hearing thereon. In the event a hearing is requested,
15 the order shall remain temporary until a final order is entered
16 pursuant to such hearing.

17 (f) Hearing shall be held at such time and place as may be
18 designated by the Secretary either in the City of Springfield,
19 the City of Chicago, or in the county in which the principal
20 business office of the affected registrant or certificate
21 holder is located.

22 (g) The suspension or revocation of a registration or
23 certificate or the refusal to issue or renew a registration or
24 certificate shall not in any way limit or terminate the
25 responsibilities of any registrant or certificate holder
26 arising under any policy or contract of title insurance to

1 which it is a party. No new contract or policy of title
2 insurance may be issued, nor may any existing policy or
3 contract to title insurance be renewed by any registrant or
4 certificate holder during any period of suspension or
5 revocation of a registration or certificate.

6 (h) The Secretary may issue a cease and desist order to a
7 title insurance company, agent, or other entity doing business
8 without the required license or registration, when in the
9 opinion of the Secretary, the company, agent, or other entity
10 is violating or is about to violate any provision of this Act
11 or any law or of any rule or condition imposed in writing by
12 the Department.

13 The Secretary may issue the cease and desist order without
14 notice and before a hearing.

15 The Secretary shall have the authority to prescribe rules
16 for the administration of this Section.

17 If it is determined that the Secretary had the authority to
18 issue the cease and desist order, he may issue such orders as
19 may be reasonably necessary to correct, eliminate or remedy
20 such conduct.

21 Any person or company subject to an order pursuant to this
22 Section is entitled to judicial review of the order in
23 accordance with the provisions of the Administrative Review
24 Law.

25 The powers vested in the Secretary by this Section are
26 additional to any and all other powers and remedies vested in

1 the Secretary by law, and nothing in this Section shall be
2 construed as requiring that the Secretary shall employ the
3 powers conferred in this Section instead of or as a condition
4 precedent to the exercise of any other power or remedy vested
5 in the Secretary.

6 (Source: P.A. 98-398, eff. 1-1-14.)

7 (215 ILCS 155/23) (from Ch. 73, par. 1423)

8 Sec. 23. Violation; penalties; actual damages; injunctive
9 relief.

10 (a) Any violation of any of the provisions of this Act and,
11 beginning January 1, 2013, any violation of any of the
12 provisions of Article 3 of the Residential Real Property
13 Disclosure Act shall constitute a business offense and shall
14 subject the party violating the same to a penalty of \$1000 for
15 each offense.

16 (b) A violation of paragraphs (5.1) through (5.24) of
17 subsection (a) of Section 21 is a Class A misdemeanor.

18 (c) A person who violates the prohibitions or limitations
19 of subsection (a) of Section 21 shall be liable to the person
20 or persons charged for the settlement service involved in the
21 violation for actual damages.

22 (d) A title insurance company, a title insurance agent, or
23 an independent escrowee who violates the prohibitions or
24 limitations of subsection (a) of Section 21 shall be subject to
25 injunctive relief. If a permanent injunction is granted, the

1 court may award actual damages. Reasonable attorney's fees and
2 costs may be awarded to the prevailing party.

3 (e) ~~(b)~~ Nothing contained in this Section shall affect the
4 right of the Secretary to revoke or suspend a title insurance
5 company's, title insurance agent's, or independent escrowee's
6 certificate of authority ~~or a title insurance agent's~~
7 ~~registration~~ under any other Section of this Act.

8 (Source: P.A. 97-891, eff. 8-3-12.)

9 (215 ILCS 155/19 rep.)

10 (215 ILCS 155/24 rep.)

11 (215 ILCS 155/25 rep.)

12 Section 10. The Title Insurance Act is amended by repealing
13 Sections 19, 24, and 25.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law, except that Section 18.2 of the Title Insurance
16 Act takes effect September 1, 2020.