

HB4677



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4677

by Rep. Ron Sandack

SYNOPSIS AS INTRODUCED:

215 ILCS 155/26

Amends the Title Insurance Act. Deletes language that sunsets a provision concerning disbursement of settlement funds out of fiduciary trust accounts on January 1, 2015.

LRB098 17406 RPM 52506 b

A BILL FOR

1 AN ACT concerning insurance.

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 Section 26 as follows:

6 (215 ILCS 155/26)

7 Sec. 26. Settlement funds.

8 (a) A title insurance company, title insurance agent, or
9 independent escrowee shall not make disbursements in
10 connection with any escrows, settlements, or closings out of a
11 fiduciary trust account or accounts unless the funds in the
12 aggregate amount of \$50,000 or greater received from any single
13 party to the transaction are good funds as defined in
14 paragraphs (2), (6), or (7) of subsection (c) of this Section;
15 or are collected funds as defined in subsection (d) of this
16 Section.

17 For the purposes of this subsection (a), where funds in the
18 aggregate amount of \$50,000 or greater are received from any
19 purchaser of residential real property, as defined in paragraph
20 (14) of Section 3 of this Act, the aggregate amount may consist
21 of good funds of less than \$50,000 per paragraph, as defined in
22 paragraphs (3) and (5) of subsection (c) of this Section and of
23 up to \$5,000 in good funds, as defined in paragraph (4) of

1 subsection (c) of this Section.

2 (a-5) In addition to the good funds disbursement
3 authorization set forth in subsection (a) of this Section, a
4 title insurance company, title insurance agent, or independent
5 escrowee is authorized to make disbursements in connection with
6 any escrows, settlements, or closings out of a fiduciary trust
7 account or accounts where the funds in the aggregate amount of
8 \$50,000 or greater are received from any single party to the
9 transaction if:

10 (1) the funds are transferred by a cashier's check,
11 teller's check, or certified check, as defined in the
12 Uniform Commercial Code, that is drawn on or issued by a
13 financial institution, as defined in this Act;

14 (2) the title insurance company, title insurance
15 agent, or independent escrowee and the financial
16 institution, as defined in this Act, are known to each
17 other and agree to the use of cashier's checks, teller's
18 checks, or certified checks as good funds under item (3) of
19 subsection (c) of this Section; and

20 (3) the cashier's check, teller's check, or certified
21 check is delivered to the title insurance company, title
22 insurance agent, or independent escrowee in sufficient
23 time for the check to be deposited into the title insurance
24 company's, title insurance agent's, or independent
25 escrowee's fiduciary trust account prior to disbursement
26 from the fiduciary trust account of the title insurance

1 company, title insurance agent, or independent escrowee.

2 ~~The provisions of this subsection (a-5) are inoperative on~~
3 ~~and after January 1, 2015.~~

4 (b) A title insurance company or title insurance agent
5 shall not make disbursements in connection with any escrows,
6 settlements, or closings out of a fiduciary trust account or
7 accounts unless the funds in the amount of less than \$50,000
8 received from any single party to the transaction are collected
9 funds or good funds as defined in subsection (c) of this
10 Section.

11 (c) "Good funds" means funds in one of the following forms:

12 (1) lawful money of the United States;

13 (2) wired funds unconditionally held by and credited to
14 the fiduciary trust account of the title insurance company,
15 the title insurance agent, or independent escrowee;

16 (3) cashier's checks, certified checks, bank money
17 orders, official bank checks, or teller's checks drawn on
18 or issued by a financial institution and unconditionally
19 held by the title insurance company, title insurance agent,
20 or independent escrowee;

21 (4) a personal check or checks in an aggregate amount
22 not exceeding \$5,000 per closing, provided that the title
23 insurance company, title insurance agent, or independent
24 escrowee has reasonable grounds to believe that sufficient
25 funds are available for withdrawal in the account upon
26 which the check is drawn at the time of disbursement;

1 (5) a check drawn on the trust account of any lawyer or
2 real estate broker licensed under the laws of any state,
3 provided that the title insurance company, title insurance
4 agent, or independent escrowee has reasonable grounds to
5 believe that sufficient funds are available for withdrawal
6 in the account upon which the check is drawn at the time of
7 disbursement;

8 (6) a check issued by this State, the United States, or
9 a political subdivision of this State or the United States;
10 or

11 (7) a check drawn on the fiduciary trust account of a
12 title insurance company or title insurance agent, provided
13 that the title insurance company, title insurance agent, or
14 independent escrowee has reasonable grounds to believe
15 that sufficient funds are available for withdrawal in the
16 account upon which the check is drawn at the time of
17 disbursement.

18 (d) "Collected funds" means funds deposited, finally
19 settled, and credited to the title insurance company, title
20 insurance agent, or independent escrowee's fiduciary trust
21 account.

22 (e) A purchaser, a seller, or a lender is each considered a
23 single party to the transaction for the purposes of this
24 Section, regardless of the number of people or entities making
25 up the purchaser, seller, or lender.

26 (Source: P.A. 98-387, eff. 8-16-13.)