



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5986

by Rep. Jeanne M Ives

#### SYNOPSIS AS INTRODUCED:

215 ILCS 155/21

from Ch. 73, par. 1421

Amends the Title Insurance Act. Provides that the Secretary of Financial and Professional Regulation also may refuse to grant and may suspend or revoke a certificate of authority, registration, or license issued under the Act or impose a fine if the Secretary determines that the holder of or applicant for a certificate of authority, registration, or license: (1) is both a holder of a registration as a title insurance agent and a licensed real estate agent or licensed real estate broker and has acted as a licensed real estate agent or licensed real estate broker for any party to a real property transaction in which the person has also acted as a registered title insurance agent or (2) is both a holder of a registration as a title insurance agent and a loan originator, mortgage loan originator, loan officer, or a Nationwide Mortgage Licensing System and Registry license holder and has acted as a loan originator, mortgage loan originator, loan officer, or a Nationwide Mortgage Licensing System and Registry license holder for any party to a real property transaction in which the person has also acted as a registered title insurance agent. Effective immediately.

LRB100 24123 SMS 43247 b

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 Section 21 as follows:

6 (215 ILCS 155/21) (from Ch. 73, par. 1421)

7 Sec. 21. Regulatory action.

8 (a) The Secretary may refuse to grant, and may suspend or  
9 revoke, any certificate of authority, registration, or license  
10 issued pursuant to this Act or may impose a fine for a  
11 violation of this Act if he determines that the holder of or  
12 applicant for such certificate, registration or license:

13 (1) has intentionally made a material misstatement or  
14 fraudulent misrepresentation in relation to a matter  
15 covered by this Act;

16 (2) has misappropriated or tortiously converted to its  
17 own use, or illegally withheld, monies held in a fiduciary  
18 capacity;

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

22 (4) has materially misrepresented the terms or  
23 conditions of contracts or agreements to which it is a

1 party;

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

7 (6) has failed to comply with the deposit and reserve  
8 requirements of this Act or any other requirements of this  
9 Act;

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

13 (8) has a conviction or plea of guilty or plea of nolo  
14 contendere in this State or any other jurisdiction to (i)  
15 any felony or (ii) a misdemeanor, an essential element of  
16 which is dishonesty or fraud or larceny, embezzlement, or  
17 obtaining money, property, or credit by false pretenses or  
18 by means of a confidence game;

19 (9) has been disciplined by another state, the District  
20 of Columbia, a territory, foreign nation, a governmental  
21 agency, or any entity authorized to impose discipline if at  
22 least one of the grounds for that discipline is the same as  
23 or equivalent to one of the grounds for which a title  
24 insurance company, title insurance agent, or independent  
25 escrowee may be disciplined under this Act or if at least  
26 one of the grounds for that discipline involves dishonesty;

1 a certified copy of the record of the action by the other  
2 state or jurisdiction shall be prima facie evidence  
3 thereof;

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

6 (11) has knowingly and willfully made any substantial  
7 misrepresentation or untruthful advertising;

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

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

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

17 (15) has violated the terms of a disciplinary order  
18 issued by the Department;

19 (16) has disregarded or violated any provision of this  
20 Act or the published rules adopted by the Department to  
21 enforce this Act or has aided or abetted any individual,  
22 partnership, registered limited liability partnership,  
23 limited liability company, or corporation in disregarding  
24 any provision of this Act or the published rules; ~~or~~

25 (17) has acted as a title insurance company, title  
26 insurance agent, or independent escrowee without a

1 certificate of authority, registration, or license after  
2 the title insurance company, title insurance agent, or  
3 independent escrowee's certificate of authority,  
4 registration, or license was inoperative;~~;~~

5 (18) is both a holder of a registration as a title  
6 insurance agent and an attorney and has acted as the  
7 attorney for any party to a real property transaction in  
8 which the person has also acted as a registered title  
9 insurance agent;

10 (19) is both a holder of a registration as a title  
11 insurance agent and a licensed real estate agent or  
12 licensed real estate broker and has acted as a licensed  
13 real estate agent or licensed real estate broker for any  
14 party to a real property transaction in which the person  
15 has also acted as a registered title insurance agent; or

16 (20) is both a holder of a registration as a title  
17 insurance agent and a loan originator, mortgage loan  
18 originator, loan officer, or a Nationwide Mortgage  
19 Licensing System and Registry license holder and has acted  
20 as a loan originator, mortgage loan originator, loan  
21 officer, or a Nationwide Mortgage Licensing System and  
22 Registry license holder for any party to a real property  
23 transaction in which the person has also acted as a  
24 registered title insurance agent.

25 (b) In every case where a registration or certificate is  
26 suspended or revoked, or an application for a registration or

1 certificate or renewal thereof is refused, the Secretary shall  
2 serve notice of his action, including a statement of the  
3 reasons for his action, as provided by this Act. When a notice  
4 of suspension or revocation of a certificate of authority is  
5 given to a title insurance company, the Secretary shall also  
6 notify all the registered agents of that title insurance  
7 company of the Secretary's action.

8 (c) In the case of a refusal to issue or renew a  
9 certificate or accept a registration, the applicant or  
10 registrant may request in writing, within 30 days after the  
11 date of service, a hearing. In the case of a refusal to renew,  
12 the expiring registration or certificate shall be deemed to  
13 continue in force until 30 days after the service of the notice  
14 of refusal to renew, or if a hearing is requested during that  
15 period, until a final order is entered pursuant to such  
16 hearing.

17 (d) The suspension or revocation of a registration or  
18 certificate shall take effect upon service of notice thereof.  
19 The holder of any such suspended registration or certificate  
20 may request in writing, within 30 days of such service, a  
21 hearing.

22 (e) In cases of suspension or revocation of registration  
23 pursuant to subsection (a), the Secretary may, in the public  
24 interest, issue an order of suspension or revocation which  
25 shall take effect upon service of notification thereof. Such  
26 order shall become final 60 days from the date of service

1 unless the registrant requests in writing, within such 60 days,  
2 a formal hearing thereon. In the event a hearing is requested,  
3 the order shall remain temporary until a final order is entered  
4 pursuant to such hearing.

5 (f) Hearing shall be held at such time and place as may be  
6 designated by the Secretary either in the City of Springfield,  
7 the City of Chicago, or in the county in which the principal  
8 business office of the affected registrant or certificate  
9 holder is located.

10 (g) The suspension or revocation of a registration or  
11 certificate or the refusal to issue or renew a registration or  
12 certificate shall not in any way limit or terminate the  
13 responsibilities of any registrant or certificate holder  
14 arising under any policy or contract of title insurance to  
15 which it is a party. No new contract or policy of title  
16 insurance may be issued, nor may any existing policy or  
17 contract to title insurance be renewed by any registrant or  
18 certificate holder during any period of suspension or  
19 revocation of a registration or certificate.

20 (h) The Secretary may issue a cease and desist order to a  
21 title insurance company, agent, or other entity doing business  
22 without the required license or registration, when in the  
23 opinion of the Secretary, the company, agent, or other entity  
24 is violating or is about to violate any provision of this Act  
25 or any law or of any rule or condition imposed in writing by  
26 the Department.

1           The Secretary may issue the cease and desist order without  
2 notice and before a hearing.

3           The Secretary shall have the authority to prescribe rules  
4 for the administration of this Section.

5           If it is determined that the Secretary had the authority to  
6 issue the cease and desist order, he may issue such orders as  
7 may be reasonably necessary to correct, eliminate or remedy  
8 such conduct.

9           Any person or company subject to an order pursuant to this  
10 Section is entitled to judicial review of the order in  
11 accordance with the provisions of the Administrative Review  
12 Law.

13           The powers vested in the Secretary by this Section are  
14 additional to any and all other powers and remedies vested in  
15 the Secretary by law, and nothing in this Section shall be  
16 construed as requiring that the Secretary shall employ the  
17 powers conferred in this Section instead of or as a condition  
18 precedent to the exercise of any other power or remedy vested  
19 in the Secretary.

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

21           Section 99. Effective date. This Act takes effect upon  
22 becoming law.