

SB0195



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0195

Introduced 1/30/2019, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

215 ILCS 155/26

Amends the Title Insurance Act. Provides that the definition of "good funds" includes a check drawn on the fiduciary trust account of an independent escrowee.

LRB101 05472 SMS 50486 b

A BILL FOR

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 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, agree to the use of
17 cashier's checks, teller's checks, or certified checks to
18 disburse the loan and related closing costs being funded by
19 the financial institution as good funds under item (3) of
20 subsection (c) of this Section; and

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

1 from the fiduciary trust account of the title insurance
2 company, title insurance agent, or independent escrowee.

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

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

11 (1) lawful money of the United States;

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

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

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

26 (5) a check drawn on the trust account of any lawyer or

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

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

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

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

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

25 (Source: P.A. 98-387, eff. 8-16-13; 98-1067, eff. 8-26-14.)