

SB2262



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2262

Introduced 5/31/2019, by Sen. Don Harmon

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 may refuse to issue and may suspend or revoke a certificate of authority, registration, or license under the Act or discipline the holder of such for referring a consumer to another producer of title business on the express or implicit condition that the producer of title business to whom that consumer is referred use a particular title insurance company or title insurance agent. Effective immediately.

LRB101 12614 SMS 61053 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 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; or -

5 (18) has referred a consumer to another producer of
6 title business on the express or implicit condition that
7 the producer of title business to whom that consumer is
8 referred use a particular title insurance company or title
9 insurance agent.

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

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

1 hearing.

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

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

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

21 (g) The suspension or revocation of a registration or
22 certificate or the refusal to issue or renew a registration or
23 certificate shall not in any way limit or terminate the
24 responsibilities of any registrant or certificate holder
25 arising under any policy or contract of title insurance to
26 which it is a party. No new contract or policy of title

1 insurance may be issued, nor may any existing policy or
2 contract to title insurance be renewed by any registrant or
3 certificate holder during any period of suspension or
4 revocation of a registration or certificate.

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

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

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

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

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

24 The powers vested in the Secretary by this Section are
25 additional to any and all other powers and remedies vested in
26 the Secretary by law, and nothing in this Section shall be

1 construed as requiring that the Secretary shall employ the
2 powers conferred in this Section instead of or as a condition
3 precedent to the exercise of any other power or remedy vested
4 in the Secretary.

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

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.