



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB4023

Introduced 1/21/2022, by Sen. Omar Aquino

SYNOPSIS AS INTRODUCED:

215 ILCS 155/3	from Ch. 73, par. 1403
215 ILCS 155/5	from Ch. 73, par. 1405
215 ILCS 155/12	from Ch. 73, par. 1412
215 ILCS 155/14	from Ch. 73, par. 1414
215 ILCS 155/16	from Ch. 73, par. 1416
215 ILCS 155/17	from Ch. 73, par. 1417
215 ILCS 155/18	from Ch. 73, par. 1418
215 ILCS 155/18.2 new	
215 ILCS 155/19	from Ch. 73, par. 1419
215 ILCS 155/21	from Ch. 73, par. 1421

Amends the Title Insurance Act. Provides that it is unlawful for any person, firm, partnership, association, corporation, or other legal entity to act as or hold itself out to be a title insurance agent without first procuring a license from the Secretary of Financial and Professional Regulation. Provides that the Secretary or the Secretary's authorized representative shall have the power and authority to compel an independent escrowee's compliance with the provisions of the Act. Provides that every title insurance agent shall pay specified fees. Provides that the Secretary may require participation in a third-party, multi-state licensing system for licensing. Sets forth additional title insurance licensing requirements for applicants. Provides that a title insurance license shall be renewed every 2 years (rather than annually). Sets forth provisions concerning premiums and endorsement charges. Provides that the Secretary may refuse to grant, and may suspend or revoke, any certificate of authority, registration, or license or may impose a fine if he or she determines that the holder of or applicant for such certificate, registration, or license has engaged in specified acts. Removes language that provides that expenses incurred in the course of such examinations will be the responsibility of the title insurance company, and that if a present or former registered agent or its successor refuses or is unable to cooperate with a title insurance company in furnishing the records requested by the Secretary or his or her authorized agent, then the Secretary or his or her authorized agent shall have the power and authority to obtain those records directly from the registered agent. Makes other changes. Defines terms. Effective January 1, 2023.

LRB102 24544 BMS 34581 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 Sections 3, 5, 12, 14, 16, 17, 18, 19, and 21 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
16 of 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
21 substantially equivalent to any of the activities listed
22 in this subsection, provided that the preparation of an
23 attorney's opinion of title pursuant to paragraph (1)(C)
24 is not intended to be within the definition of "title
25 insurance business" or "business of title insurance".

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

1 warranting, or indemnifying owners of real or personal
2 property or the holders of liens or encumbrances thereon or
3 others interested therein against loss or damage suffered by
4 reason of liens, encumbrances upon, defects in, or the
5 unmarketability of the title to the property; the invalidity
6 or unenforceability of any liens or encumbrances thereon; or
7 doing any business in substance equivalent to any of the
8 foregoing. "Warranting" for purpose of this provision shall
9 not include any warranty contained in instruments of
10 encumbrance or conveyance. Title insurance is a single line
11 form of insurance, also known as monoline. An attorney's
12 opinion of title pursuant to paragraph (1)(C) is not intended
13 to be within the definition of "title 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~~
23 ~~company~~ and authorized by a title insurance ~~such~~ company to
24 determine insurability of title in accordance with generally
25 acceptable underwriting rules and standards in reliance on
26 either the public records or a search package prepared from a

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

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

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

1 arrangement, or understanding or pursues any course of conduct
2 the purpose of which is to evade the provisions of this Act.

3 (6) "Financial interest" is any ownership interest, legal
4 or beneficial, of more than 1% in a privately held or ~~except~~
5 ~~ownership of publicly traded~~ company ~~stock~~.

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

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

21 (9) "Independent Escrowee" means any firm, person,
22 partnership, association, corporation or other legal entity,
23 other than a title insurance company or a title insurance
24 agent, which receives deposits, in trust, of funds or
25 documents, or both, for the purpose of effecting the sale,
26 transfer, encumbrance or lease of real property to be held by

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

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

1 (11) "Department" means the Department of Financial and
2 Professional Regulation.

3 (12) "Secretary" means the Secretary of Financial and
4 Professional Regulation.

5 (13) "Insured closing letter" or "closing protection
6 letter" means an indemnification or undertaking to a party to
7 a real property transaction, from a principal such as a title
8 insurance company, setting forth in writing the extent of the
9 principal's responsibility for intentional misconduct or
10 errors in closing the real property transaction on the part of
11 a settlement agent, such as a title insurance agent or other
12 settlement service provider, or an indemnification or
13 undertaking given by a title insurance company or an
14 independent escrowee setting forth in writing the extent of
15 the title insurance company's or independent escrowee's
16 responsibility to a party to a real property transaction which
17 indemnifies the party against the intentional misconduct or
18 errors in closing the real property transaction on the part of
19 the title insurance company or independent escrowee and
20 includes protection afforded pursuant to subsections (f), (g),
21 and (h) of Section 16, Section 16.1, subsection (h) of Section
22 17, and Section 17.1 of this Act even if such protection is
23 afforded by contract.

24 (14) "Residential real property" means a building or
25 buildings consisting of one to 4 residential units or a
26 residential condominium unit where at least one of the

1 residential units or condominium units is occupied or intended
2 to be occupied as a residence by the purchaser or borrower, or
3 in the event that the purchaser or borrower is the trustee of a
4 trust, by a beneficiary of that trust.

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

13 (16) "Core title services" means to:

14 (A) determine insurability of title, which includes
15 title examination and title clearance; and

16 (B) issue or cause to issue title insurance
17 commitments, policies, and endorsements.

18 (17) "Multi-state licensing system" means a web-based
19 platform that allows an applicant to submit his or her
20 application or license renewal application to the Department
21 online.

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

23 (215 ILCS 155/5) (from Ch. 73, par. 1405)

24 Sec. 5. Certificate of authority required to engage in
25 activities under this Act.

1 (a) It is unlawful for any company to engage or to continue
2 in the business of title insurance without first procuring
3 from the Secretary a certificate of authority stating that the
4 company has complied with the requirements of Section 4 of
5 this Act. An insurer that transacts any class of insurance
6 other than title insurance anywhere in the United States is
7 not eligible for the issuance of a certificate of authority to
8 transact title insurance in this State nor for a renewal of a
9 certificate of authority.

10 (b) It is unlawful for any person, firm, partnership,
11 association, corporation, or other legal entity to act as or
12 hold itself out to be a title insurance agent without first
13 procuring from the Secretary a license subject to the
14 conditions of Section 16.

15 (c) As used in this Act, the terms "license" and
16 "certificate of authority" have the same meaning.

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

18 (215 ILCS 155/12) (from Ch. 73, par. 1412)

19 Sec. 12. Examinations; compliance.

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

25 (b) The Secretary or his authorized representative agent

1 shall have power and authority to compel compliance with the
2 provisions of this Act, may visit a title insurance agent, and
3 shall, only upon the showing of good cause, require a title
4 insurance agent to make appropriate records ~~any title~~
5 ~~insurance company to take all legal means to obtain the~~
6 ~~appropriate records of its registered agents and make them~~
7 available for examination at a time and place designated by
8 the Secretary. ~~Expenses incurred in the course of such~~
9 ~~examinations will be the responsibility of the title insurance~~
10 ~~company. In the event that a present or former registered~~
11 ~~agent or its successor refuses or is unable to cooperate with a~~
12 ~~title insurance company in furnishing the records requested by~~
13 ~~the Secretary or his or her authorized agent, then the~~
14 ~~Secretary or his or her authorized agent shall have the power~~
15 ~~and authority to obtain those records directly from the~~
16 ~~registered agent.~~

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

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

22 (215 ILCS 155/14) (from Ch. 73, par. 1414)

23 Sec. 14. Fees.

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

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

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

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

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

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

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

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

17 (1) for a resident of this State filing the original
18 application for a certificate of authority and for the
19 certificate of authority, \$80;

20 (2) for a nonresident of this State filing the
21 original application for a certificate of authority and
22 for the certificate of authority, \$120;

23 (3) for a resident or nonresident of this State filing
24 for renewal of a certificate of authority, \$80; and

25 (4) for a resident or nonresident of this State filing
26 for reinstatement of a lapsed certificate of authority,

1 \$120.

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

3 (215 ILCS 155/16) (from Ch. 73, par. 1416)

4 Sec. 16. Title insurance agents.

5 (a) No person, firm, partnership, association, corporation
6 or other legal entity shall act as or hold itself out to be a
7 title insurance agent unless it is authorized to perform core
8 title services ~~duly registered~~ by a title insurance company
9 and has a license from ~~with~~ the Secretary. Every title
10 insurance agent registration issued before, on, or after the
11 effective date of this amendatory Act of the 102nd General
12 Assembly shall satisfy the requirements for a license under
13 this amendatory Act of the 102nd General Assembly until
14 January 1 of the calendar year immediately following the
15 adoption of rules by the Department as may be necessary for the
16 administration of granting of the license for title insurance
17 agents under this amendatory Act of the 102nd General
18 Assembly, and until the related application is either approved
19 or disapproved. The continued recognition of such title
20 insurance agent registrations during this period does not
21 relieve title insurance agents and title insurance companies
22 of their other obligations under this Act before, on, or after
23 the effective date of this amendatory Act of the 102nd General
24 Assembly.

25 (b) Each application for a license ~~registration~~ shall be

1 made on a form specified by the Secretary and prepared by each
2 title insurance company which the agent represents. The title
3 insurance company shall retain the copy of the application and
4 forward a copy to the Secretary. The Secretary may require
5 participation in a third-party, multi-state licensing system
6 for licensing under this Act. The third-party, multi-state
7 licensing system may share regulatory information and maintain
8 records in compliance with the provisions of this Act. The
9 third-party, multi-state licensing system may charge an
10 administration fee. The title insurance agent licensing fees
11 that are set forth in Section 14 shall be paid by the title
12 insurance agent to the Department.

13 (c) License applications shall comply with the following:

14 (1) Every applicant for a license ~~registration~~, except
15 a firm, partnership, association, limited liability
16 company, or corporation, must be 18 years or more of age.

17 (2) Every applicant for a license that is a firm,
18 partnership, association, corporation, or other legal
19 entity shall designate and name at least one individual
20 who:

21 (i) has a financial interest in the licensee; and

22 (ii) is authorized by at least one title insurance
23 company to determine insurability of title.

24 (3) Included in every application for a license
25 ~~registration~~ of a title insurance agent, including a firm,
26 partnership, association, limited liability company, or

1 corporation, shall be an affidavit of the applicant title
2 insurance agent, signed and notarized in front of a notary
3 public, affirming that the applicant and every owner,
4 officer, director, principal, member, or manager of the
5 applicant has never been convicted or pled guilty to any
6 felony or misdemeanor involving a crime of theft or
7 dishonesty or otherwise accurately disclosing any such
8 felony or misdemeanor involving a crime of theft or
9 dishonesty. No person who has had a conviction or pled
10 guilty to any felony or misdemeanor involving theft or
11 dishonesty may be appointed ~~registered~~ by a title
12 insurance company without a written notification to the
13 Secretary disclosing the conviction or plea, and no such
14 person may serve as an owner, officer, director,
15 principal, or manager of any ~~registered~~ title insurance
16 agent without the written permission of the Secretary.

17 (4) Every applicant shall obtain and maintain errors
18 and omissions insurance or its equivalent, such as
19 malpractice insurance covering title insurance agent
20 services, in an amount acceptable to the title insurance
21 company authorizing the agent, but in no event in an
22 amount less than \$250,000 per claim and an aggregate limit
23 of \$500,000 with a deductible in an amount acceptable to
24 the title insurance company appointing the agent. A title
25 insurance company shall not provide the insurance directly
26 or indirectly on behalf of a title insurance agent. If

1 errors and omissions insurance is unavailable generally,
2 the Department shall adopt rules for alternative methods
3 to comply with this paragraph.

4 (d) A license Registration shall be renewed by February 1
5 every 2 years ~~made annually~~ by a filing with the Secretary or
6 other method using a multi-state licensing system as
7 determined by the Secretary through the adoption of rules;
8 supplemental filings ~~registrations~~ for a new agency agreement
9 with a title insurance company agents to be added between
10 license renewal ~~annual~~ filings shall be made from time to time
11 in the manner provided by the Secretary; licenses
12 ~~registrations~~ shall remain in effect unless revoked or
13 suspended by the Secretary, ~~or~~ voluntarily withdrawn by the
14 title insurance agent, ~~registrant~~ or the title insurance agent
15 no longer has any agency agreement with a title insurance
16 company.

17 (e) Funds deposited in connection with any escrows,
18 settlements, or closings shall be deposited in a separate
19 fiduciary trust account or accounts in a bank or other
20 financial institution insured by an agency of the federal
21 government unless the instructions provide otherwise. The
22 funds shall be the property of the person or persons entitled
23 thereto under the provisions of the escrow, settlement, or
24 closing and shall be segregated by escrow, settlement, or
25 closing in the records of the escrow agent. The funds shall not
26 be subject to any debts of the escrowee and shall be used only

1 in accordance with the terms of the individual escrow,
2 settlement, or closing under which the funds were accepted.

3 Interest received on funds deposited with the escrow agent
4 in connection with any escrow, settlement, or closing shall be
5 paid to the depositing party unless the instructions provide
6 otherwise.

7 The escrow agent shall maintain separate records of all
8 receipts and disbursements of escrow, settlement, or closing
9 funds.

10 The escrow agent shall comply with any rules adopted by
11 the Secretary pertaining to escrow, settlement, or closing
12 transactions.

13 (f) A title insurance agent shall not act as an escrow
14 agent in a nonresidential real property transaction where the
15 amount of settlement funds on deposit with the escrow agent is
16 less than \$2,000,000 or in a residential real property
17 transaction unless the title insurance agent, title insurance
18 company, or another authorized title insurance agent has
19 committed for the issuance of title insurance in that
20 transaction and the title insurance agent is authorized to act
21 as an escrow agent on behalf of the title insurance company for
22 which the commitment for title insurance has been issued. The
23 authorization under the preceding sentence shall be given
24 either (1) by an agency contract with the title insurance
25 company which contract, in compliance with the requirements
26 set forth in subsection (g) of this Section, authorizes the

1 title insurance agent to act as an escrow agent on behalf of
2 the title insurance company or (2) by a closing protection
3 letter in compliance with the requirements set forth in
4 Section 16.1 of this Act, issued by the title insurance
5 company to the seller, buyer, borrower, and lender. A closing
6 protection letter shall not be issued by a title insurance
7 agent. The provisions of this subsection (f) shall not apply
8 to the authority of a title insurance agent to act as an escrow
9 agent under subsection (g) of Section 17 of this Act.

10 (g) If an agency contract between the title insurance
11 company and the title insurance agent is the source of the
12 authority under subsection (f) of this Section for a title
13 insurance agent to act as escrow agent for a real property
14 transaction, then the agency contract shall provide for no
15 less protection from the title insurance company to all
16 parties to the real property transaction than the title
17 insurance company would have provided to those parties had the
18 title insurance company issued a closing protection letter in
19 conformity with Section 16.1 of this Act.

20 (h) A title insurance company shall be liable for the acts
21 or omissions of its title insurance agent as an escrow agent if
22 the title insurance company has authorized the title insurance
23 agent under subsections (f) and (g) of this Section 16 and only
24 to the extent of the liability undertaken by the title
25 insurance company in the agency agreement or closing
26 protection letter. The liability, if any, of the title

1 insurance agent to the title insurance company for acts and
2 omissions of the title insurance agent as an escrow agent
3 shall not be limited or otherwise modified because the title
4 insurance company has provided closing protection to a party
5 or parties to a real property transaction escrow, settlement,
6 or closing. The escrow agent shall not charge a fee for
7 protection provided by a title insurance company to parties to
8 real property transactions under subsections (f) and (g) of
9 this Section 16 and Section 16.1, but shall collect from the
10 parties the fee charged by the title insurance company and
11 shall promptly remit the fee to the title insurance company.
12 The title insurance company may charge the parties a
13 reasonable fee for protection provided pursuant to subsections
14 (f) and (g) of this Section 16 and Section 16.1 and shall not
15 pay any portion of the fee to the escrow agent. The payment of
16 any portion of the fee to the escrow agent by the title
17 insurance company, shall be deemed a prohibited inducement or
18 compensation in violation of Section 24 of this Act. Any other
19 charges to a party to the transaction that are related to
20 escrow services shall not be duplicative of any other charges
21 to that party and shall be commensurate with the actual cost of
22 the work performed and the material furnished.

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

1 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15;
2 99-104, eff. 1-1-16.)

3 (215 ILCS 155/17) (from Ch. 73, par. 1417)

4 Sec. 17. Independent escrowees.

5 (a) Every independent escrowee shall be subject to the
6 same certification and deposit requirements to which title
7 insurance companies are subject under Section 4 of this Act.

8 (b) No person, firm, corporation or other legal entity
9 shall hold itself out to be an independent escrowee unless it
10 has been issued a certificate of authority by the Secretary.

11 (c) Every applicant for a certificate of authority, except
12 a firm, partnership, association or corporation, must be 18
13 years or more of age.

14 (d) Every certificate of authority shall remain in effect
15 one year unless revoked or suspended by the Secretary or
16 voluntarily surrendered by the holder.

17 (e) An independent escrowee may engage in the escrow,
18 settlement, or closing business, or any combination of such
19 business, and operate as an escrow, settlement, or closing
20 agent, provided that:

21 (1) Funds deposited in connection with any escrow,
22 settlement, or closing shall be deposited in a separate
23 fiduciary trust account or accounts in a bank or other
24 financial institution insured by an agency of the federal
25 government unless the instructions provide otherwise. Such

1 funds shall be the property of the person or persons
2 entitled thereto under the provisions of the escrow,
3 settlement, or closing and shall be segregated by escrow,
4 settlement or closing in the records of the independent
5 escrowee. Such funds shall not be subject to any debts of
6 the escrowee and shall be used only in accordance with the
7 terms of the individual escrow, settlement or closing
8 under which the funds were accepted.

9 (2) Interest received on funds deposited with the
10 independent escrowee in connection with any escrow,
11 settlement or closing shall be paid to the depositing
12 party unless the instructions provide otherwise.

13 (3) The independent escrowee shall maintain separate
14 records of all receipt and disbursement of escrow,
15 settlement or closing funds.

16 (4) The independent escrowee shall comply with any
17 rules or regulations promulgated by the Secretary
18 pertaining to escrow, settlement or closing transactions.

19 (f) The Secretary or his authorized representative shall
20 have the power and authority to visit and examine at any time
21 any independent escrowee certified under this Act and to
22 verify and compel compliance with the provisions of this Act.

23 (g) A title insurance company or title insurance agent,
24 not qualified as an independent escrowee, may act in the
25 capacity of an escrow agent when it is supplying an abstract of
26 title, grantor-grantee search, tract search, lien search, tax

1 assessment search, or other limited purpose search to the
2 parties to the transaction even if it is not issuing a title
3 insurance commitment or title insurance policy. A title
4 insurance agent may act as an escrow agent only when
5 specifically authorized in writing on forms prescribed by the
6 Secretary by a title insurance company that has duly
7 registered the agent with the Secretary and only when notice
8 of the authorization is provided to and receipt thereof is
9 acknowledged by the Secretary. The authority granted to a
10 title insurance agent may be limited or revoked at any time by
11 the title insurance company.

12 (h) An independent escrowee may, pursuant to Section 17.1
13 of this Act, issue an insured closing letter if, in addition to
14 complying with the same certification and deposit requirements
15 that title insurance companies are subject to under Section 4
16 of this Act, the independent escrowee:

17 (1) Satisfies the Secretary that it has a minimum
18 capital and surplus of \$2,000,000. The Secretary may
19 provide the forms and standards for this purpose by rule.
20 This paragraph applies only to independent escrowees
21 licensed under this Act for the first time on or after the
22 effective date of this amendatory Act of the 100th General
23 Assembly.

24 (2) Files with and has approved by the Secretary proof
25 of a fidelity bond in the minimum amount of \$2,000,000 per
26 occurrence.

1 (3) Establishes and maintains a statutory closing
2 protection letter reserve for the protection of parties
3 named in warranties of services consisting of a sum of 25%
4 of the closing protection letter revenue received by the
5 independent escrowee on or after the effective date of
6 this amendatory Act of the 100th General Assembly. The
7 reserve shall be reported as a liability of the
8 independent escrowee in its financial statements. Amounts
9 placed in the statutory closing protection letter reserve
10 shall be deducted in determining the net profit of the
11 independent escrowee for the year. Except as provided in
12 this subsection, assets in value equal to the statutory
13 closing protection letter reserve are not subject to
14 distribution among creditors, stockholders, or other
15 owners of the independent escrowee until all claims of
16 parties named in warranties of services have been paid in
17 full and discharged.

18 (4) Releases from the statutory closing protection
19 letter reserve a sum equal to 10% of the amount added to
20 the reserve during a calendar year on July 1 of each of the
21 5 years following the year in which the sum was added and
22 releases from the statutory closing protection letter
23 reserve a sum equal to 3 1/3% of the amount added to the
24 reserve during that year on each succeeding July 1 until
25 the entire amount for that year has been released.

26 Notwithstanding an insured closing letter pursuant to

1 Section 17.1, any other charges to a party to the transaction
2 that are related to escrow services shall not be duplicative
3 of any other charges to that party and shall be commensurate
4 with the actual cost of the work performed and the material
5 furnished.

6 The Secretary shall adopt and amend rules as may be
7 required for the proper administration and enforcement of this
8 subsection (h) consistent with the federal Real Estate
9 Settlement and Procedures Act and Section 24 of this Act.

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

11 (215 ILCS 155/18) (from Ch. 73, par. 1418)

12 Sec. 18. Disclosure of financial interests ~~No referral~~
13 ~~payments; kickbacks.~~

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

17 (b) No title insurance company, independent escrowee, or
18 title insurance agent may issue a title insurance policy to,
19 or provide services to an applicant if it knows or has reason
20 to believe that the applicant was referred to it by any
21 producer of title business or by any associate of such
22 producer, where the producer, the associate, or both, have a
23 financial interest in the title insurance company, independent
24 escrowee, or title insurance agent to which business is
25 referred unless the producer has disclosed to any party paying

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

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

19 (1) Each title insurance company and independent
20 escrowee shall file the report required under this
21 subsection with its application for a certificate of
22 authority and at any time there is a change in the
23 information provided in the last report.

24 (2) Each title insurance agent shall file the report
25 required under this subsection with its title insurance
26 company for inclusion with its application for

1 registration and at any time there is a change in the
2 information provided in its last report.

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

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

9 (215 ILCS 155/18.2 new)

10 Sec. 18.2. Retention and remittance of premiums and
11 endorsement charges.

12 (a) Regarding residential real property transactions, from
13 the owner's policy premium, loan policy premium, and
14 endorsement charges, not including closing protection letter
15 charges, a title insurance agent shall retain 85% and remit
16 15% to a title insurance company for each premium and
17 endorsement that the title insurance agent performs at least
18 core title services. For such residential real property
19 transactions, if the title insurance agent does not perform at
20 least core title services for a premium or endorsement charge,
21 then the title insurance agent or title insurance company
22 performing the core title services shall be compensated an
23 amount equal to 85% of each premium or endorsement charge for
24 which they perform the core title services. If title services
25 subject to this Act are provided to a title insurance agent by

1 another entity or individual, there shall be a written service
2 agreement for such services, payment shall be made pursuant to
3 the agreement if the transaction closes or the policy is
4 issued, any charges to a party to the transaction that are
5 related to such services shall not be duplicative of any other
6 charges to that party, and, if applicable, shall be in
7 compliance with subparagraph (F) of paragraph (18) of
8 subsection (a) of Section 21.

9 (b) Any fees charged to the parties to the transaction
10 other than the owner's policy premium, loan policy premium,
11 and endorsement charges shall not be duplicative of any other
12 charges to that party, shall be retained or remitted in an
13 amount commensurate with the actual cost of the work performed
14 and material furnished, and, if applicable, shall be in
15 compliance with subparagraph (F) of paragraph (18) of
16 subsection (a) of Section 21.

17 (215 ILCS 155/19) (from Ch. 73, par. 1419)

18 Sec. 19. Secretary powers; pricing. Notwithstanding the
19 minimum fees set forth in subparagraph (F) of paragraph (18)
20 of subsection (a) of Section 21, nothing ~~Nothing~~ contained in
21 this Act shall be construed as giving any authority to the
22 Secretary to set or otherwise adjust the fees charged to the
23 parties to the transaction for:

24 (1) issuing a title insurance policy, including any
25 service charge or administration fee for the issuance of a

1 title insurance policy;

2 (2) abstracting, searching and examining title;

3 (3) preparing or issuing preliminary reports, property
4 profiles, commitments, binders, or like product;

5 (4) closing fees, escrow fees, settlement fees, and
6 like charges.

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

8 (215 ILCS 155/21) (from Ch. 73, par. 1421)

9 Sec. 21. Regulatory action.

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

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

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

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

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

1 grounds for that discipline involves dishonesty; a
2 certified copy of the record of the action by the other
3 state or jurisdiction shall be prima facie evidence
4 thereof;

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

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

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

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

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

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

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

26 (17) has acted as a title insurance company, title

1 insurance agent, or independent escrowee without a
2 certificate of authority, registration, or license after
3 the title insurance company, title insurance agent, or
4 independent escrowee's certificate of authority,
5 registration, or license was inoperative; ~~or-~~

6 (18) regarding residential real property transactions:

7 (A) has disbursed funds before the actual delivery
8 of funds acceptable to the closing and settlement
9 services agent;

10 (B) has disbursed closing and settlement services
11 funds before all necessary conditions of the
12 transaction have been met;

13 (C) has paid for, furnished, or offered to pay for
14 or furnish any reward or compensation for any past,
15 present, or future title insurance business or closing
16 and settlement services or any other title business,
17 including, but not limited to, the payment of a fee to
18 an attorney for the referral of title business;

19 (D) has paid or offered to pay any fee to a
20 producer of title business for making an inspection or
21 appraisal of property;

22 (E) has received securities of the title insurance
23 company, title insurance agent, or independent
24 escrowee at prices below the normal market price or
25 bonds or debentures that guarantee a higher than
26 normal interest rate, whether or not the consummation

1 of the transaction is directly or indirectly related
2 to the number of closing and settlement services or
3 title orders coming to the title insurance company,
4 title insurance agent, or independent escrowee through
5 the efforts of that person;

6 (F) has furnished to any producer of title
7 business or associate of a producer reports containing
8 publicly recorded information, appraisals, estimates
9 of income production potential, information kits, or
10 similar packages containing information about one or
11 more parcels of real property helpful to any producer
12 of title business without making a charge that is
13 commensurate with the actual cost of the work
14 performed and the material furnished; additionally:

15 (i) if search services subject to this Act are
16 provided to a title insurance agent by another
17 entity or individual there shall be a written
18 service agreement for such search services,
19 payment shall be made pursuant to the agreement if
20 the transaction closes or the policy is issued,
21 and any charges to a party to the transaction that
22 are related to such search services shall not be
23 duplicative of any other charges to that party;
24 and

25 (ii) if services other than search services
26 subject to this Act are provided to a title

1 insurance agent by another entity or individual
2 there shall be a written service agreement for
3 such services, payment shall be made pursuant to
4 the agreement in a cumulative total amount no less
5 than set forth in items (I) and (II) of this
6 subdivision if the transaction closes or the
7 policy is issued, and any charges to a party to the
8 transaction that are related to such services
9 shall not be duplicative of any other charges to
10 that party:

11 (I) \$350 for transactions with any
12 residential real property in the counties of
13 Cook, Lake, DuPage, McHenry, Kane, Will,
14 Grundy, and Kendall; and

15 (II) \$175 for transactions with any
16 residential real property in any other county
17 within the State.

18 (G) has made or guaranteed or has offered to make
19 or guarantee, either directly or indirectly, any loan
20 to any producer of title business or associate of a
21 producer with terms more favorable than otherwise
22 available to the producer;

23 (H) has guaranteed or offered to guarantee the
24 proper performance of closing and settlement services
25 or undertakings that are to be performed by any
26 producer of title business, except as authorized

1 pursuant to Sections 16 and 16.1;

2 (I) has provided or offered to provide, either
3 directly or indirectly, a compensating balance or
4 deposit in a lending institution either for the
5 express or implied purpose of influencing the
6 placement or channeling of title insurance business by
7 the lending institution; this paragraph does not
8 prohibit the maintenance by a title insurance company,
9 title agent, or independent escrowee of demand
10 deposits or escrow deposits that are reasonably
11 necessary for use in the ordinary course of the
12 business of the title insurance company, title agent,
13 or independent escrowee;

14 (J) has paid for or offered to pay for the fees or
15 charges of an outside professional, such as an
16 attorney, engineer, appraiser, or surveyor, whose
17 services are required by any producer of title
18 business to structure or complete a particular
19 transaction;

20 (K) has provided or offered to provide non-title
21 services, such as computerized bookkeeping, forms
22 management, computer programming, or any similar
23 benefit, without a charge that is commensurate with
24 the actual cost to any producer of title business or to
25 any associate of a producer of title business;

26 (L) has furnished or offered to furnish all or any

1 part of the time or productive effort of any employee
2 of the title insurance company, title insurance agent,
3 or independent escrowee, such as an office manager,
4 escrow officer, secretary, clerk, or messenger, to any
5 producer of title business or associate of a producer
6 of title business;

7 (M) has paid for or offered to pay for all or any
8 part of the salary of an employee of any producer of
9 title business;

10 (N) has paid for or offered to pay for the salary
11 or any part of the salary of a relative of any producer
12 of title business if that payment is in excess of the
13 reasonable value of work performed by the relative on
14 behalf of the title insurance company, title insurance
15 agent, or independent escrowee;

16 (O) has paid for or offered to pay for services by
17 any producer of title business that are ordinarily to
18 be performed by the producer of title business in his
19 or her licensed capacity as a real estate or mortgage
20 broker, salesman, or agent;

21 (P) has furnished or offered to furnish or paid
22 for or offered to pay for furniture, office supplies,
23 telephones, facsimile machines, equipment, or
24 automobiles to any producer of title business, or has
25 paid for or offered to pay for any portion of the cost
26 of renting, leasing, operating, or maintaining any of

1 these items;

2 (Q) has paid for, furnished, or waived, or offered
3 to pay for, furnish, or waive, all or any part of the
4 rent for space occupied by any producer of title
5 business;

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

13 (S) has paid for or offered to pay for gifts,
14 vacations, business trips, convention expenses, travel
15 expenses, membership fees, registration fees, lodging,
16 or meals on behalf of a producer of title business,
17 directly or indirectly, or supplied letters of credit,
18 credit cards, or any such benefits;

19 (T) has paid for or offered to pay for the
20 cancellation fee for a title report or other fee on
21 behalf of any producer of title business either before
22 or after inducing the producer of title business to
23 cancel an order with another title insurance company,
24 title insurance agent, or independent escrowee;

25 (U) has paid for, furnished, or offered to pay for
26 or furnish any business form to any producer of title

1 business, other than a form regularly used in the
2 conduct of the title insurance company's business,
3 that is furnished for the convenience of the title
4 insurance company and does not constitute a direct
5 monetary benefit to any producer of title business; or

6 (V) has given trading stamps, cash redemption
7 coupons, or similar items to any producer of title
8 business.

9 (a-1) Nothing in paragraph (18) of subsection (a) shall be
10 construed as prohibiting:

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

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

19 (3) providing reasonable promotional and educational
20 activities that are not conditioned on the referral of
21 business and that do not involve the defraying of expenses
22 that otherwise would be incurred by persons in a position
23 to refer settlement services or business incident to those
24 services, such as a reception by a title company, seminars
25 on title matters offered to professionals, furnishing
26 property descriptions and names of record owners without

1 charge to lenders, real estate brokers, attorneys, or
2 others, or distribution of calendars and other promotional
3 material that do not exceed \$25 in value;

4 (4) the payment of a fee:

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

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

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

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

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

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

24 (6) proportionate returns on an ownership or franchise
25 interest; or

26 (7) ordinary and customary business entertainment or

1 promotional activities not to exceed \$200 in value per
2 person, per quarter of each year beginning January 1 by
3 title insurance companies, title insurance agents, or
4 independent escrowees that are not directly or indirectly
5 consideration as an inducement or compensation for the
6 referral of title business or for the referral of any
7 escrow or other service from a title insurance company,
8 title insurance agent, or independent escrowee.

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

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

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

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

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

20 (g) The suspension or revocation of a registration or
21 certificate or the refusal to issue or renew a registration or
22 certificate shall not in any way limit or terminate the
23 responsibilities of any registrant or certificate holder
24 arising under any policy or contract of title insurance to
25 which it is a party. No new contract or policy of title
26 insurance may be issued, nor may any existing policy or

1 contract to title insurance be renewed by any registrant or
2 certificate holder during any period of suspension or
3 revocation of a registration or certificate.

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

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

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

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

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

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

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

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

5 Section 99. Effective date. This Act takes effect January
6 1, 2023.