



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4555

Introduced 1/31/2024, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

215 ILCS 155/3	from Ch. 73, par. 1403
215 ILCS 155/12	from Ch. 73, par. 1412
215 ILCS 155/15.2 new	
215 ILCS 155/16	from Ch. 73, par. 1416
215 ILCS 155/16.2 new	
215 ILCS 155/17.2 new	

Amends the Title Insurance Act. Provides that no person, firm, partnership, association, corporation, or other legal entity shall act as or hold itself out to be a title insurance agent without first procuring a certificate of authority from the Secretary of Financial and Professional Regulation (rather than unless duly registered by a title insurance company with the Secretary). Provides that a certificate of authority shall remain in effect unless revoked or suspended by the Secretary or voluntarily surrendered by the holder, or when the holder of the certificate of authority is no longer authorized as a title insurance agent of a title insurance company. Provides that every applicant that is not duly registered as a title insurance agent on the effective date of the amendatory Act shall comply with specified requirements. Sets forth provisions concerning applications for a certificate of authority and makes changes concerning the powers of the Secretary. Provides that the Secretary shall maintain a database of title insurance agents in good standing on a publicly accessible website that any person may use to verify the authority of a particular title insurance agent. Sets forth duties applicable to transactions involving residential real property for title insurance companies, title insurance agents, and independent escrowees. Makes other changes. Effective immediately.

LRB103 37017 RPS 67132 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, 12, and 16 and by adding Sections 15.2, 16.2, and
6 17.2 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 that is the holder of a certificate of authority provided
23 pursuant to Section 16 and that is authorized ~~registered~~ by a
24 title insurance company to solicit title insurance, collect
25 title insurance premiums and endorsement charges, perform core
26 title services, and, if authorized by a title insurance

1 ~~company, and authorized by such company to determine~~
2 ~~insurability of title in accordance with generally acceptable~~
3 ~~underwriting rules and standards in reliance on either the~~
4 ~~public records or a search package prepared from a title~~
5 ~~plant, or both, and authorized by such title insurance company~~
6 ~~in addition to do any of the following:~~ act as an escrow agent
7 pursuant to Sections ~~subsections (f), (g), and (h) of Section~~
8 16, 16.1, and 16.2 of this Act. ~~"Title, solicit title~~
9 ~~insurance, collect premiums, or issue title insurance~~
10 ~~commitments, policies, and endorsements of the title insurance~~
11 ~~company; provided, however, the term "title insurance agent"~~
12 does ~~shall~~ not include officers and salaried employees of any
13 title insurance company.

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

23 (5) "Associate" is any firm, association, partnership,
24 corporation or other legal entity organized for profit in
25 which a producer of title business is a director, officer, or
26 partner thereof, or owner of a financial interest, as defined

1 herein, in such entity; any legal entity that controls, is
2 controlled by, or is under common control with a producer of
3 title business; and any natural person or legal entity with
4 whom a producer of title business has any agreement,
5 arrangement, or understanding or pursues any course of conduct
6 the purpose of which is to evade the provisions of this Act.

7 (6) "Financial interest" is any ownership interest, legal
8 or beneficial, except ownership of publicly traded stock.

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

13 (8) "Escrow Agent" means any title insurance company or
14 any title insurance agent, including independent contractors
15 of either, acting on behalf of a title insurance company,
16 which receives deposits, in trust, of funds or documents, or
17 both, for the purpose of effecting the sale, transfer,
18 encumbrance or lease of real property to be held by such escrow
19 agent until title to the real property that is the subject of
20 the escrow is in a prescribed condition. An escrow agent
21 conducting closings shall be subject to the provisions of
22 Sections paragraphs (1) through (4) of subsection (c) of
23 Section 16, 16.1, and 16.2 of this Act.

24 (9) "Independent Escrowee" means any firm, person,
25 partnership, association, corporation or other legal entity,
26 other than a title insurance company or a title insurance

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

18 (10) "Single risk" means the insured amount of any title
19 insurance policy, except that where 2 or more title insurance
20 policies are issued simultaneously covering different estates
21 in the same real property, "single risk" means the sum of the
22 insured amounts of all such title insurance policies. Any
23 title insurance policy insuring a mortgage interest, a claim
24 payment under which reduces the insured amount of a fee or
25 leasehold title insurance policy, shall be excluded in
26 computing the amount of a single risk to the extent that the

1 insured amount of the mortgage title insurance policy does not
2 exceed the insured amount of the fee or leasehold title
3 insurance policy.

4 (11) "Department" means the Department of Financial and
5 Professional Regulation.

6 (12) "Secretary" means the Secretary of Financial and
7 Professional Regulation.

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

1 (14) "Residential real property" means a building or
2 buildings consisting of one to 4 residential units or a
3 residential condominium unit where at least one of the
4 residential units or condominium units is occupied or intended
5 to be occupied as a residence by the purchaser or borrower, or
6 in the event that the purchaser or borrower is the trustee of a
7 trust, by a beneficiary of that trust.

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

16 (16) "Core title services" means the performance of the
17 following services, for which liability shall arise, and that
18 is separate from and is not duplicative of any other
19 professional service, including, without limitation, the
20 practice of law and the performance of services as a real
21 estate licensee:

22 (A) review and evaluation of title, tax, judgment,
23 lien, and other searches or search products, private title
24 plant records, records of grantor-grantee and other
25 indices, public records and other records, and any other
26 information and materials which are relevant to a

1 particular property and transaction to determine
2 insurability of title to the property;

3 (B) issuing or causing to be issued the title
4 commitments on behalf of a title insurance company,
5 including the determination of the conditions under which
6 the title insurance company will issue the title insurance
7 policies required in a particular transaction;

8 (C) determination as to whether, in accordance with
9 applicable law and the title insurance company's
10 underwriting requirements, principles, or guidelines,
11 underwriting objections stated on the title insurance
12 commitments may be cleared and the circumstances under
13 which the objections will be waived or insured before
14 issuance of the title insurance policies; and

15 (D) issuing or causing to be issued the title
16 insurance policies required in a particular transaction
17 when all conditions for the issuance have been satisfied.

18 (17) "Title search" means any abstract of title, tract,
19 tax, judgment, or lien searches, limited purpose searches,
20 other searches and search products, private title plant
21 records, records of grantor-grantee and other indices, public
22 records and other records, property inspections, records
23 related to the status of title to land, and other information
24 and materials that are relevant to a particular residential
25 real property and transactions relating to that residential
26 real property.

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

2 (215 ILCS 155/12) (from Ch. 73, par. 1412)

3 Sec. 12. Examinations; compliance.

4 (a) The Secretary or the Secretary's ~~his~~ authorized
5 representative shall have the power and authority, and it
6 shall be his duty, to cause to be visited and examined annually
7 any title insurance company doing business under this Act, and
8 to verify and compel compliance with the provisions of law
9 governing it.

10 (b) The Secretary or the Secretary's ~~his~~ authorized
11 representative agent shall have power and authority to visit
12 and examine the records specifically pertaining to the
13 services provided under this Act of any title insurance agent,
14 but not including files pertaining to the title insurance
15 agent's practice of law, if applicable, and to verify and
16 compel compliance with the provisions of this Act ~~compel~~
17 ~~compliance with the provisions of this Act and shall, only~~
18 ~~upon the showing of good cause, require any title insurance~~
19 ~~company to take all legal means to obtain the appropriate~~
20 ~~records of its registered agents and make them available for~~
21 ~~examination at a time and place designated by the Secretary.~~
22 ~~Expenses incurred in the course of such examinations will be~~
23 ~~the responsibility of the title insurance company. In the~~
24 ~~event that a present or former registered agent or its~~
25 ~~successor refuses or is unable to cooperate with a title~~

1 ~~insurance company in furnishing the records requested by the~~
2 ~~Secretary or his or her authorized agent, then the Secretary~~
3 ~~or his or her authorized agent shall have the power and~~
4 ~~authority to obtain those records directly from the registered~~
5 ~~agent.~~

6 (c) The Secretary or the Secretary's authorized
7 representative shall have the power and authority to visit and
8 examine the records specifically pertaining to the services
9 provided under this Act of any independent escrowee and to
10 verify and compel compliance with the provisions of this Act.

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

12 (215 ILCS 155/15.2 new)

13 Sec. 15.2. Title insurance company duties.

14 (a) This Section applies only to transactions involving
15 residential real property.

16 (b) In the conduct of its title insurance business, every
17 title insurance company shall:

18 (1) Post and publish its current rates and charges
19 associated with its title insurance business with a clear
20 and complete description thereof, including, without
21 limitation, title insurance premiums, endorsements to
22 policies, fees for services as an escrow agent, and all
23 other services and products it provides, conspicuously in
24 its offices and on its websites, social media, and
25 digital, electronic, online, and other platforms and

1 places that are intended to be visited or viewed by the
2 public. Title insurance companies must also provide their
3 registered title insurance agents with the posted and
4 published rates and charges. A title insurance company
5 must not make a charge that exceeds its published rates
6 and charges. This subsection (b) does not apply to special
7 risk title insurance and endorsement premiums, general
8 advertising, and marketing in media not controlled by the
9 title insurance company, but any such advertising shall
10 contain information, such as an Internet web address or a
11 hyperlink, to a website where the published rates and
12 charges can be viewed by the public.

13 (2) Require all of its title insurance agents to
14 perform, at a minimum in each transaction, all core title
15 services as a condition to that title insurance agent's
16 compensation as set forth in the agency contract, and may
17 not interfere with, assume in whole or in part, or prevent
18 the title insurance agent's performance of any core title
19 service.

20 (3) Agree upon the terms of the agency in writing with
21 its title insurance agents; the terms shall include that
22 the title insurance agent must perform, at a minimum, all
23 core title services as a condition of the title insurance
24 agent's compensation for each title insurance product and
25 endorsement issued and the compensation that the title
26 insurance agent shall receive for the performance of such

1 core title services. Compensation to the title insurance
2 agent for the performance of core title services shall be
3 as stated in the written agency contract.

4 (4) Share title insurance premiums and endorsement
5 charges only with its title insurance agent performing the
6 core title services in a transaction.

7 (5) Agree in writing with any title insurance agent to
8 which the title insurance company provides products or
9 services that are not core title services but are related
10 to the title insurance agent's performance of core title
11 services and are included in the cost of the title
12 insurance premiums and endorsements, such as, if
13 applicable, title searches, underwriting research
14 assistance, quality control, document recording, retention
15 of title documentation, commitment and policy typing, or
16 other products and services to the title insurance agent.
17 The written agreement must set forth, at a minimum, a
18 description of the products and services to be provided
19 and the compensation to be paid for such products and
20 services. Such compensation must be commensurate with the
21 actual value of the products and services.

22 (6) Retain any remedy or right of action against its
23 title insurance agent as provided in any law, rule, or
24 regulation for the title insurance agent's failure to
25 perform its obligations under the written agency contract,
26 underwriting requirements, or otherwise as provided by

1 law.

2 (c) In any residential real property transaction in which
3 a title insurance company acts as an escrow agent pursuant to
4 any provision in this Act:

5 (1) A title insurance company's current rates and
6 charges for its products and services rendered as an
7 escrow agent must be included in the posting and
8 publication provided for in subsection (b).

9 (2) A title insurance company shall disburse all title
10 insurance premiums and endorsement charges as directed by
11 the title insurance agent performing core title services
12 under Section 16.2 at the time of settlement or closing.
13 The disbursements shall be in accordance with the written
14 agency or other contracts between the title insurance
15 agent and the title insurance company acting as the escrow
16 agent in the transaction and the distributions shall be
17 clearly and unambiguously disclosed on any applicable
18 closing disclosure or settlement statement and delivered
19 to the parties to the transaction at the time of closing or
20 settlement.

21 (3) A title insurance company shall not share or allow
22 to be shared, either directly or indirectly, any of its
23 compensation for its service as an escrow agent or other
24 products or services with any title insurance agent except
25 as provided in this Section. Any payment that is contrary
26 to this paragraph (3) is a prohibited inducement or

1 compensation for a referral in violation of Section 24.

2 (d) Nothing in this Section shall be construed to restrict
3 or impair a title insurance company's right or ability to
4 determine and promulgate its underwriting requirements,
5 principles, and conditions for insuring any risk that would be
6 covered in a policy of insurance or an endorsement to a policy,
7 or to educate, instruct, or inform its title insurance agents
8 as to its underwriting requirements generally or in a
9 particular transaction or otherwise. Nothing in this Section
10 shall be construed to restrict or impair a title insurance
11 company's right or ability to determine and charge special
12 risk title insurance and endorsement premiums that are
13 different from the posted or published rates and premiums, or
14 to waive or vary from its title insurance underwriting
15 requirements, principles, and conditions for insuring any risk
16 that would be covered in a policy of insurance or an
17 endorsement to a policy in any given case as it, in its sole
18 discretion, may decide. Special risk title insurance and
19 endorsement premiums shall not be shared with any other party.

20 (215 ILCS 155/16) (from Ch. 73, par. 1416)

21 Sec. 16. Title insurance agents.

22 (a) No person, firm, partnership, association,
23 corporation, or other legal entity shall act as or hold itself
24 out to be a title insurance agent without first procuring a
25 certificate of authority from the Secretary. A certificate of

1 authority shall remain in effect unless revoked or suspended
2 by the Secretary, voluntarily surrendered by the holder, or
3 the holder of the certificate of authority is no longer
4 authorized as a title insurance agent of a title insurance
5 company unless duly registered by a title insurance company
6 with the Secretary.

7 (b) Each application for a certificate of authority
8 ~~registration~~ shall be made on a form specified by the
9 Secretary ~~and prepared by each title insurance company which~~
10 ~~the agent represents. The title insurance company shall retain~~
11 ~~the copy of the application and forward a copy to the~~
12 ~~Secretary.~~

13 (c) Every applicant for a certificate of authority
14 ~~registration~~, except a firm, partnership, association, limited
15 liability company, or corporation, must be 18 years or more of
16 age. Included in every application for a certificate of
17 authority registration of a title insurance agent, including a
18 firm, partnership, association, limited liability company, or
19 corporation, shall be an affidavit of the applicant title
20 insurance agent, signed and notarized in front of a notary
21 public, affirming that the applicant and every owner, officer,
22 director, principal, member, or manager of the applicant has
23 never been convicted or pled guilty to any felony or
24 misdemeanor involving a crime of theft or dishonesty or
25 otherwise accurately disclosing any such felony or misdemeanor
26 involving a crime of theft or dishonesty, and that the

1 applicant and every owner, officer, director, principal,
2 member, or manager of the applicant has never been adjudicated
3 by any tribunal to be civilly liable to any party based on a
4 finding involving theft or dishonesty. No person who has had a
5 conviction or pled guilty to any felony or misdemeanor or who
6 has been adjudicated by any tribunal to be civilly liable to
7 any party based on a finding involving theft or dishonesty may
8 qualify for a certificate of authority ~~be registered by a~~
9 ~~title insurance company~~ without a written notification to the
10 Secretary disclosing the conviction or plea, and no such
11 person may serve as an owner, officer, director, principal, or
12 manager of any ~~registered~~ title insurance agent without the
13 written permission of the Secretary.

14 (d) Every individual applicant that is not duly registered
15 as a title insurance agent on the effective date of this
16 amendatory Act of the 103rd General Assembly shall:
17 ~~Registration shall be made annually by a filing with the~~
18 ~~Secretary; supplemental registrations for new title insurance~~
19 ~~agents to be added between annual filings shall be made from~~
20 ~~time to time in the manner provided by the Secretary;~~
21 ~~registrations shall remain in effect unless revoked or~~
22 ~~suspended by the Secretary or voluntarily withdrawn by the~~
23 ~~registrant or the title insurance company.~~

24 (1) Successfully complete a 4-year course of study in
25 a high school or secondary school approved by the state in
26 which the school is located, or possess a State of

1 Illinois High School Diploma, which shall be verified
2 under oath by the applicant.

3 (2) Pass an examination that is designed to determine
4 the competency of the applicant to conduct the business of
5 a title agent and knowledge of basic real property law and
6 title insurance procedures. The applicant shall file with
7 its application satisfactory proof that the applicant has
8 passed the competency examination. The Department shall
9 have the authority to adopt administrative rules to
10 approve testing providers, establish the testing
11 procedures, including, but not limited to, the
12 requirements for passing the examination, and the content
13 of the examination that shall, at a minimum, determine the
14 competency of an applicant in the following subject
15 matters and any other subject matter which the Secretary
16 may determine to be basic and essential to the competent
17 conduct of the business of a title insurance agent, which
18 must include, at a minimum:

19 (i) the Title Insurance Act and its requirements;

20 (ii) Illinois real property law, including, but
21 not limited to, forms of ownership, conveyancing,
22 testate or intestate succession of title, taxes,
23 judgments, liens, surveys;

24 (iii) basic knowledge of the federal Real Estate
25 Settlement Procedures Act;

26 (iv) core title services; and

1 (v) title examinations and methods, title
2 objections, policy and endorsement forms, waivers of
3 policy exceptions, and escrow procedures.

4 Any applicant that is a firm, partnership, association,
5 corporation, or other legal entity shall fulfill the
6 examination requirement of paragraph (2) of this subsection
7 (d) by an officer of the entity that owns an equity interest in
8 the entity and that has managerial authority in the entity.

9 (e) The requirements of subsection (d) do not apply to
10 applicants who are admitted to practice law by the Supreme
11 Court of Illinois and who are in active standing or to
12 applicants that have earned the Illinois Land Title
13 Association's "Illinois Title Professional" designation.

14 (f) The Secretary shall issue a certificate of authority
15 to conduct business as a title insurance agent upon
16 determination that an applicant has passed the required
17 examination and is otherwise in compliance with this Act and
18 all applicable laws. The certificate of authority provided for
19 in this Section shall be renewed every 2 years upon the payment
20 of a certificate of authority renewal fee in an amount
21 determined by the Secretary pursuant to the rulemaking
22 authority under subsection (s).

23 (g) Any title insurance agent who is registered on the
24 effective date of this amendatory Act of the 103rd General
25 Assembly may continue to conduct the business of title
26 insurance as a title insurance agent for a period of one year

1 after the effective date of this amendatory Act of the 103rd
2 General Assembly and shall be issued a certificate of
3 authority upon the filing by a title insurance company with
4 the Secretary a written agency agreement that complies with
5 this Act within 90 days after the effective date of this
6 amendatory Act of the 103rd General Assembly.

7 (h) A title insurance company shall annually file with the
8 Secretary a list of all title insurance agents authorized to
9 conduct the business of title insurance as an agent of the
10 title insurance company. Supplemental filings for new title
11 insurance agents to be added between annual filings shall be
12 made from time to time in the manner provided by the Secretary.
13 A title insurance company shall immediately notify the
14 Secretary of any title insurance agent whose agency has been
15 terminated, and shall immediately file with the Secretary any
16 new title insurance agency agreement that replaces an
17 agreement already on file or that has been revised or amended
18 in any way.

19 (i) The Secretary shall maintain a database of title
20 insurance agents in good standing on a publicly accessible
21 website that any person may use to verify the authority of a
22 particular title insurance agent.

23 (j) ~~(e)~~ Funds deposited in connection with any escrows,
24 settlements, or closings shall be deposited into ~~in~~ a separate
25 fiduciary trust account or accounts in a bank or other
26 financial institution insured by an agency of the federal

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

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

13 The escrow agent shall maintain separate records of all
14 receipts and disbursements of escrow, settlement, or closing
15 funds.

16 The escrow agent shall comply with any rules adopted by
17 the Secretary pertaining to escrow, settlement, or closing
18 transactions.

19 (k) A title insurance agent shall not act as an escrow
20 agent in a residential real property transaction unless the
21 title insurance agent files with the Secretary and the
22 Secretary approves cash or bonds of the United States, this
23 State, or any body politic of this State in the amounts
24 specified in subsection (l). The deposit is not to be
25 otherwise pledged or subject to distribution among creditors,
26 owners of equity, or stockholders until all claims of escrow

1 depositors have been paid in full or discharged, reinsured, or
2 otherwise assumed by a title insurance company authorized to
3 do business under this Act. The cash, bonds, and securities so
4 deposited may be exchanged for other such securities. No such
5 cash, bond, or security shall be sold or transferred by the
6 Secretary except on order of the circuit court or as provided
7 in subsection (o). The company shall be permitted to receive
8 from the Secretary the interest on the deposit as long as the
9 company depositing such securities remains solvent.

10 (l) The deposit required under subsection (k) must have a
11 then-current value of \$500,000. For title insurance agents
12 that act as an escrow agent exclusively for transactions
13 involving residential real property in counties having
14 populations of fewer than 500,000, the deposit required under
15 subsection (k) must have a then-current value of \$250,000. All
16 deposits shall be held for the benefit of any named party to a
17 written escrow it accepted. The deposit is not to be otherwise
18 pledged or subject to distribution among creditors or
19 stockholders.

20 (m) The Secretary may provide for custody of the deposits
21 by any trust company or bank located in this State and
22 qualified to do business under the Corporate Fiduciary Act.
23 The compensation, if any, of such custodian shall be paid by
24 the depositing company. When the required deposits have been
25 made by a title insurance agent that intends to act as an
26 escrow agent in any residential real property transaction, the

1 Secretary shall certify that the title insurance agent has
2 complied with the provisions of this Section and is authorized
3 to transact the business of a title insurance agent acting as
4 an escrow agent in residential real property transactions.

5 (n) Before doing business in the State of Illinois in a
6 residential real property transaction, an escrow agent must
7 file with and have approved by the Secretary proof of a
8 fidelity bond in the minimum amount of \$1,000,000 per
9 occurrence, errors and omissions insurance in the minimum
10 amount of \$1,000,000 per occurrence, and cybercrime insurance
11 coverage in the minimum amount of \$500,000 per occurrence. The
12 insurance policies required shall be issued by insurers that
13 are authorized to conduct such insurance business in the State
14 of Illinois. The title insurance agent may not conduct title
15 insurance business as an escrow agent unless the deposit,
16 fidelity bond, errors and omissions insurance, and cybercrime
17 insurance coverage required by this Section are continuously
18 maintained.

19 (o) The Secretary may revoke the certificate of authority
20 of a title insurance agent acting as an escrow agent that fails
21 to maintain the deposit, fidelity bond, errors and omissions
22 insurance, or cybercrime insurance coverage required by this
23 Section. The Secretary shall give notice of that revocation to
24 such title insurance agent as provided by this Act, and,
25 during the time of the revocation, the title insurance agent
26 may not conduct any title insurance business as an escrow

1 agent. A revocation shall not be set aside until the title
2 insurance agent has filed with and has been approved by the
3 Secretary in accordance with the requirements of this Section
4 and the title insurance agent is otherwise in compliance with
5 this Act, or until the title insurance agent ceases to do
6 business as an escrow agent.

7 (p) ~~(f)~~ A title insurance agent shall not act as an escrow
8 agent in a nonresidential real property transaction where the
9 amount of settlement funds on deposit with the escrow agent is
10 less than \$2,000,000 or in a residential real property
11 transaction unless the title insurance agent, title insurance
12 company, or another authorized title insurance agent has
13 committed for the issuance of title insurance in that
14 transaction and the title insurance agent is authorized to act
15 as an escrow agent on behalf of the title insurance company for
16 which the commitment for title insurance has been issued. The
17 authorization under the preceding sentence shall be given
18 either (1) by an agency contract with the title insurance
19 company which contract, in compliance with the requirements
20 set forth in subsection (q) ~~(g)~~ of this Section, authorizes
21 the title insurance agent to act as an escrow agent on behalf
22 of the title insurance company or (2) by a closing protection
23 letter in compliance with the requirements set forth in
24 Section 16.1 of this Act, issued by the title insurance
25 company to the seller, buyer, borrower, and lender. A closing
26 protection letter shall not be issued by a title insurance

1 agent. ~~The provisions of this subsection (f) shall not apply~~
2 ~~to the authority of a title insurance agent to act as an escrow~~
3 ~~agent under subsection (g) of Section 17 of this Act.~~

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

14 (r) ~~(h)~~ A title insurance company shall be liable for the
15 acts or omissions of its title insurance agent as an escrow
16 agent if the title insurance company has authorized the title
17 insurance agent under subsections (p) and (q) ~~(f) and (g)~~ of
18 this Section 16 and only to the extent of the liability
19 undertaken by the title insurance company in the agency
20 agreement or closing protection letter. The liability, if any,
21 of the title insurance agent to the title insurance company
22 for acts and omissions of the title insurance agent as an
23 escrow agent shall not be limited or otherwise modified
24 because the title insurance company has provided closing
25 protection to a party or parties to a real property
26 transaction escrow, settlement, or closing. The escrow agent

1 shall not charge a fee for protection provided by a title
2 insurance company to parties to real property transactions
3 under subsections (p) and (q) ~~(f) and (g)~~ of this Section 16
4 and Section 16.1, but shall collect from the parties the fee
5 charged by the title insurance company and shall promptly
6 remit the fee to the title insurance company. The title
7 insurance company may charge the parties a reasonable fee for
8 protection provided pursuant to subsections (p) and (q) ~~(f)~~
9 ~~and (g)~~ of this Section 16 and Section 16.1 and shall not pay
10 any portion of the fee to the escrow agent. The payment of any
11 portion of the fee to the escrow agent by the title insurance
12 company, shall be deemed a prohibited inducement or
13 compensation in violation of Section 24 of this Act.

14 (s) ~~(i)~~ The Secretary shall adopt and amend such rules as
15 may be required for the proper administration and enforcement
16 of this Section 16 consistent with the federal Real Estate
17 Settlement Procedures Act and Section 24 of this Act,
18 including the proper administration of the licensing and
19 examination of applicants, the retention of third-party
20 licensing and competency examination entities if the Secretary
21 deems such retention to be reasonable, necessary, and proper,
22 and application, licensing, and renewal fees sufficient to
23 offset the costs of the implementation, administration, and
24 enforcement of the provisions of this Section. The Department
25 shall adopt such rules as the Secretary deems necessary
26 promptly after the effective date of this amendatory Act of

1 the 103rd General Assembly.

2 (t) Notwithstanding any other provision of this amendatory
3 Act of the 103rd General Assembly, the examination
4 requirements of paragraph (2) of subsection (d) shall take
5 effect on the date that final rules for implementation of
6 provisions described in subsection (s) take effect.

7 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15;
8 99-104, eff. 1-1-16.)

9 (215 ILCS 155/16.2 new)

10 Sec. 16.2. Title insurance agent duties.

11 (a) This Section shall apply only to transactions
12 involving residential real property.

13 (b) In the conduct of its title insurance business, every
14 title insurance agent shall:

15 (1) Post and publish the current rates and charges of
16 each of its title insurance company principals, as
17 provided by the title insurance company, conspicuously in
18 its offices and on its websites, social media, and
19 digital, electronic, online, and other platforms and
20 places that are intended to be visited or viewed by the
21 public. A title insurance agent shall not make a charge
22 that exceeds the published rates and charges. This
23 subsection (b) does not apply to special risk title
24 insurance and endorsements premiums, general advertising,
25 and marketing in media not controlled by the title

1 insurance agent, but any such advertising shall contain
2 information, such as an Internet web address or a
3 hyperlink, to a website where such published rates and
4 charges can be viewed by the public.

5 (2) Agree upon the terms of the agency in writing with
6 each title insurance company for which it is a registered
7 agent; the terms shall include that the title insurance
8 agent must perform, at a minimum, all core title services
9 as a condition of the title insurance agent's compensation
10 for each title insurance product and endorsement issued,
11 and the compensation that the title insurance agent shall
12 receive for the performance of such core title services.
13 Compensation received by the title insurance agent for the
14 performance of core title services shall not exceed that
15 which is stated in the written agency contract.

16 (3) Enter into an agreement in writing with any escrow
17 agent or title insurance agent that provides products or
18 services that are not core title services but that are
19 related to the title insurance agent's performance of core
20 title services and are included in the title insurance and
21 endorsements premiums, such as, if applicable, title
22 searches, underwriting research assistance, quality
23 control, document recording, retention of title
24 documentation, commitment and policy typing, or other
25 products and services to the title insurance agent; the
26 agreement shall set forth, at a minimum, a description of

1 the product and services to be provided, the compensation
2 to be paid for such products and services, and the
3 conditions for which the products and services are
4 necessary. Such compensation shall be commensurate with
5 the actual value of such products and services.

6 (4) Perform, at a minimum, all core title services as
7 a condition of its compensation as set forth in the agency
8 agreement.

9 (5) Direct the escrow agent or independent escrowee as
10 to the disbursement at the time of settlement or closing
11 of title insurance premiums and endorsement charges to the
12 title insurance company in accordance with its agency
13 contract and to the escrow agent in accordance with its
14 written agreement. All such disbursements shall be clearly
15 and unambiguously disclosed on any applicable closing
16 disclosure and settlement statement and delivered to the
17 parties to the transaction at the time of closing or
18 settlement.

19 (6) Not share or allow to be shared, either directly
20 or indirectly, any of its compensation for any products or
21 services charged directly to a party in the transaction
22 with any other title insurance agent except as provided in
23 this Section. Any payment that is contrary to this
24 paragraph (6) is a prohibited inducement or compensation
25 for a referral in violation of Section 24.

26 (c) In any transaction in which a title insurance agent

1 acts as an escrow agent pursuant to Sections 16, 16.1, and 16.2
2 of this Act or any other provision in this Act:

3 (1) The title insurance agent's current rates and
4 charges for its products and services rendered as an
5 escrow agent shall be included in the posting and
6 publication provided for in subsection (b). An escrow
7 agent shall not make any charge that exceeds its published
8 rates and charges.

9 (2) The escrow agent shall disburse all title
10 insurance premiums and endorsement charges as directed by
11 the title insurance agent performing core title services
12 at the time of settlement or closing of the transaction.
13 The disbursement shall include payment for any products or
14 services that are not core title services but that are
15 related to the title insurance agent's performance of core
16 title services and are included in the cost of the title
17 insurance premiums and endorsements, such as, if
18 applicable, title searches, underwriting research
19 assistance, quality control, document recording, retention
20 of title documentation, commitment and policy typing, or
21 other products and services to the title insurance agent
22 that were supplied to the title insurance agent by an
23 escrow agent or other title insurance agent. The
24 disbursements shall be in accordance with the written
25 agency or other agreement between the title insurance
26 agent and escrow agent or other title insurance agent in

1 the transaction and the distributions shall be clearly and
2 unambiguously disclosed on any applicable closing
3 disclosure or settlement statement and delivered to the
4 parties to the transaction at the time of closing or
5 settlement.

6 (3) The escrow agent shall not share or allow to be
7 shared, either directly or indirectly, any of its
8 compensation for its service as an escrow agent or other
9 products or services charged directly to a party in the
10 transaction with any other title insurance agent except as
11 provided in this Section. Any payment that is contrary to
12 this paragraph (3) is a prohibited inducement or
13 compensation for a referral in violation of Section 24.

14 (215 ILCS 155/17.2 new)

15 Sec. 17.2. Independent escrowee duties.

16 (a) This Section shall apply only to transactions
17 involving residential real property.

18 (b) In the conduct of its escrow, settlement, or closing
19 business, and its operation as an escrow, settlement, or
20 closing agent as provided in Section 17, every independent
21 escrowee shall:

22 (1) Post and publish the current rates and charges
23 associated with its performance of the services and
24 obligations as an independent escrowee and all other
25 services and products it provides with a clear and

1 complete description thereof conspicuously in its offices
2 and on its websites, social media, and digital,
3 electronic, online, and other platforms and places that
4 are intended to be visited or viewed by the public. An
5 independent escrowee shall not make a charge that exceeds
6 the published rates and charges. This paragraph (1) shall
7 not apply to general advertising and marketing in media
8 not controlled by the independent escrowee, but any such
9 advertising shall contain information, such as an Internet
10 web address or a hyperlink, to a website where such
11 published rates and charges can be viewed by the public.

12 (2) Disburse all title insurance premiums and
13 endorsement charges as directed by the title insurance
14 agent performing core title services under subsection (c)
15 of Section 16.2 at the time of settlement or closing. All
16 such disbursements shall be clearly and unambiguously
17 disclosed on any applicable closing disclosure or
18 settlement statement and delivered to the parties to the
19 transaction at the time of closing or settlement.

20 (c) An independent escrowee shall not share or allow to be
21 shared any of its compensation for its escrow and settlement
22 services with any title insurance company or title insurance
23 agent except as provided in this Section. Any payment that is
24 contrary to this subsection (c) is a prohibited inducement or
25 compensation for a referral in violation of Section 24.

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.