



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB4941

Introduced 2/7/2024, by Rep. Terra Costa Howard

#### SYNOPSIS AS INTRODUCED:

215 ILCS 155/3	from Ch. 73, par. 1403
215 ILCS 155/5	from Ch. 73, par. 1405
215 ILCS 155/16	from Ch. 73, par. 1416
215 ILCS 155/16.2 new	

Amends the Title Insurance Act. Provides for the licensure of title insurance agents (instead of registration of title insurance agents by title insurance companies). Makes changes in the definition of "financial interest". Defines "core title agent services". Sets forth requirements for licensure, including examination and educational requirements. Sets forth exemptions from the examination and educational requirements. 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 unless first procuring from the Secretary a license. Provides that no person, firm, association, partnership, or corporation may operate as a pre-licensing or continuing education provider or administer examinations unless the provider holds a certification issued by the Department of Financial and Professional Regulation. Sets forth provisions concerning the Department's approval of applications for a certificate. Makes other changes. Effective immediately.

LRB103 36347 RPS 66446 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, and 16 and by adding Section 16.2 as follows:

6 (215 ILCS 155/3) (from Ch. 73, par. 1403)

7 Sec. 3. As used in this Act, the words and phrases  
8 following shall have the following meanings unless the context  
9 requires otherwise:

10 (1) "Title insurance business" or "business of title  
11 insurance" means:

12 (A) Issuing as insurer or offering to issue as insurer  
13 title insurance; and

14 (B) Transacting or proposing to transact one or more  
15 of the following activities when conducted or performed in  
16 contemplation of or in conjunction with the issuance of  
17 title insurance;

18 (i) soliciting or negotiating the issuance of  
19 title insurance;

20 (ii) guaranteeing, warranting, or otherwise  
21 insuring the correctness of title searches for all  
22 instruments affecting titles to real property, any  
23 interest in real property, cooperative units and

1           proprietary leases, and for all liens or charges  
2           affecting the same;

3                 (iii) handling of escrows, settlements, or  
4           closings;

5                 (iv) executing title insurance policies;

6                 (v) effecting contracts of reinsurance;

7                 (vi) abstracting, searching, or examining titles;

8           or

9                 (vii) issuing insured closing letters or closing  
10          protection letters;

11          (C) Guaranteeing, warranting, or insuring searches or  
12          examinations of title to real property or any interest in  
13          real property, with the exception of preparing an  
14          attorney's opinion of title; or

15          (D) Guaranteeing or warranting the status of title as  
16          to ownership of or liens on real property and personal  
17          property by any person other than the principals to the  
18          transaction; or

19          (E) Doing or proposing to do any business  
20          substantially equivalent to any of the activities listed  
21          in this subsection, provided that the preparation of an  
22          attorney's opinion of title pursuant to paragraph (1)(C)  
23          is not intended to be within the definition of "title  
24          insurance business" or "business of title insurance".

25          (1.5) "Title insurance" means insuring, guaranteeing,  
26          warranting, or indemnifying owners of real or personal

1 property or the holders of liens or encumbrances thereon or  
2 others interested therein against loss or damage suffered by  
3 reason of liens, encumbrances upon, defects in, or the  
4 unmarketability of the title to the property; the invalidity  
5 or unenforceability of any liens or encumbrances thereon; or  
6 doing any business in substance equivalent to any of the  
7 foregoing. "Warranting" for purpose of this provision shall  
8 not include any warranty contained in instruments of  
9 encumbrance or conveyance. Title insurance is a single line  
10 form of insurance, also known as monoline. An attorney's  
11 opinion of title pursuant to paragraph (1)(C) is not intended  
12 to be within the definition of "title insurance".

13 (2) "Title insurance company" means any domestic company  
14 organized under the laws of this State for the purpose of  
15 conducting the business of title insurance and any title  
16 insurance company organized under the laws of another State,  
17 the District of Columbia or foreign government and authorized  
18 to transact the business of title insurance in this State.

19 (3) "Title insurance agent" or "agent" means a person,  
20 firm, partnership, association, corporation, or other legal  
21 entity licensed under this Act ~~registered by a title insurance~~  
22 ~~company~~ and authorized by a title insurance ~~such~~ company to  
23 (i) perform core title agent services and (ii) determine  
24 ~~insurability of title in accordance with generally acceptable~~  
25 ~~underwriting rules and standards in reliance on either the~~  
26 ~~public records or a search package prepared from a title~~

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

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

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

1 the purpose of which is to evade the provisions of this Act.

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

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

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

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

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

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

26 (11) "Department" means the Department of Financial and

1 Professional Regulation.

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

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

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



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

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

12 (16) "Core title agent services" means the performance of  
13 the following services for which liability arises, and that is  
14 separate from and not duplicative of any other professional  
15 service, including, without limitation, the practice of law  
16 and the performance of services as a real estate licensee:

17 (A) reviewing and evaluating title, tax, judgment,  
18 lien, and other searches or search products; private title  
19 plant records; records of grantor-grantee and other  
20 indices; public records and other records; and any other  
21 information and materials that are relevant to a  
22 particular property and transaction to determine  
23 insurability of title to the property;

24 (B) issuing or causing to be issued the title  
25 commitments on behalf of a title insurance company,  
26 including the determination of the conditions under which

1 the title insurance company will issue the required title  
2 insurance policies required in a particular transaction;

3 (C) determining whether, in accordance with applicable  
4 law and the title insurance company's underwriting  
5 requirements, principles, and guidelines, objections  
6 stated on the title insurance commitments may be cleared  
7 and the requirements that must be met prior to the  
8 issuance of the title insurance policies to waive or  
9 insure over the objections; and

10 (D) issuing or causing to be issued the title  
11 insurance policies for a particular transaction when all  
12 conditions for the issuance have been satisfied.

13 (17) "Affiliated business arrangements" has the meaning  
14 given to that term in 12 U.S.C. 2602(7).

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

16 (215 ILCS 155/5) (from Ch. 73, par. 1405)

17 Sec. 5. Certificate of authority required to engage in  
18 activities under this Act.

19 (a) It is unlawful for any company to engage or to continue  
20 in the business of title insurance without first procuring  
21 from the Secretary a certificate of authority stating that the  
22 company has complied with the requirements of Section 4 of  
23 this Act. An insurer that transacts any class of insurance  
24 other than title insurance anywhere in the United States is  
25 not eligible for the issuance of a certificate of authority to

1 transact title insurance in this State nor for a renewal of a  
2 certificate of authority.

3 (b) It is unlawful for any person, firm, partnership,  
4 association, corporation, or other legal entity to act as or  
5 hold itself out to be a title insurance agent unless first  
6 procuring from the Secretary a license subject to the  
7 conditions of Section 16.

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

10 (d) All title insurance agents, including affiliated and  
11 unaffiliated business arrangements, must comply with 12 CFR  
12 1024 and the Real Estate Settlement Procedures Act (12 U.S.C.  
13 2601 et seq.) and its associated regulations.

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

15 (215 ILCS 155/16) (from Ch. 73, par. 1416)

16 Sec. 16. Title insurance agents.

17 (a) No person, firm, partnership, association, corporation  
18 or other legal entity shall act as or hold itself out to be a  
19 title insurance agent unless it (i) has been issued a license  
20 by the Secretary; and (ii) is authorized by at least one title  
21 insurance company to perform core title agent services ~~duly~~  
22 ~~registered by a title insurance company with the Secretary.~~  
23 Every title insurance agent registered after the effective  
24 date of this amendatory Act of the 103rd General Assembly  
25 shall satisfy the requirements for a license under this Act

1 until January 1 of the calendar year immediately following the  
2 Department's adoption of rules necessary to administer the  
3 licensing of title insurance agents and until the related  
4 application is approved or disapproved. The continued  
5 recognition of such title insurance agent registrations during  
6 this period does not relieve title insurance agents or title  
7 insurance companies of their other obligations under this Act  
8 before or after the effective date of this amendatory Act of  
9 the 103rd General Assembly.

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

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

1 ~~misdemeanor involving a crime of theft or dishonesty. No~~  
2 ~~person who has had a conviction or pled guilty to any felony or~~  
3 ~~misdemeanor involving theft or dishonesty may be registered by~~  
4 ~~a title insurance company without a written notification to~~  
5 ~~the Secretary disclosing the conviction or plea, and no such~~  
6 ~~person may serve as an owner, officer, director, principal, or~~  
7 ~~manager of any registered title insurance agent without the~~  
8 ~~written permission of the Secretary.~~

9 (c-5) License applications shall comply with the  
10 following:

11 (1) Every applicant for a license, except a firm,  
12 partnership, association, corporation, or other legal  
13 entity, must be 18 or more years of age.

14 (2) Every applicant for a license that is a firm,  
15 partnership, association, corporation or other legal  
16 entity shall designate and name at least one licensed  
17 individual who (i) has a financial interest in the  
18 licensee or is an employee for the licensee, and (ii) is  
19 authorized by at least one title insurance company to  
20 perform core title agent services.

21 (3) The application, including an application from a  
22 firm, partnership, association, corporation, or other  
23 legal entity, must include an affidavit of the applicant  
24 title insurance agent, which must be signed and notarized  
25 in front of a notary public, either affirming that the  
26 applicant and every owner, officer, director, principal,

1 member, or manager of the applicant has never been  
2 convicted of or pled guilty to any felony or misdemeanor  
3 involving a crime of theft or dishonesty or accurately  
4 disclosing any such felony or misdemeanor involving a  
5 crime of theft or dishonesty. No person who has been  
6 convicted of or pled guilty to any felony or misdemeanor  
7 involving theft or dishonesty may be issued a license by  
8 the Secretary or appointed by a title insurance company  
9 without a written notification to the Secretary disclosing  
10 the conviction or plea, and no such person may serve as an  
11 owner, officer, director, principal, or manager of any  
12 title insurance agent without the written permission of  
13 the Secretary.

14 (4) The initial application or the first renewal  
15 application after the effective date of this amendatory  
16 Act of the 103rd General Assembly for a license of a title  
17 insurance agent shall include:

18 (A) Proof that the applicant is exempt pursuant to  
19 subsection (c-10), (c-15), or (c-20) or has passed,  
20 within 365 days before submission of the application,  
21 with a score of no less than 70%, an examination  
22 required by the Secretary demonstrating reasonable  
23 familiarity with:

24 (i) ethical practices, duties, and  
25 responsibilities of a title agent;

26 (ii) how title insurance policy claims arise;

1           (iii) introduction to title insurance,  
2           including the requirements of the Title Insurance  
3           Act and administrative rules;

4           (iv) Illinois real property law, including,  
5           but not limited to, forms of ownership,  
6           conveyances, testate or intestate succession of  
7           title, taxes, judgments, liens, and surveys;

8           (v) core title agent services;

9           (vi) title examinations and methods, title  
10           objections, policy and endorsement forms, waivers  
11           of policy exceptions, and escrow procedures;

12           (vii) introduction to escrow and settlement  
13           regulations;

14           (viii) accounting practices for escrow agents  
15           and title agents;

16           (ix) financial responsibilities of a title  
17           agent outside of escrow; and

18           (x) principles of the federal Real Estate  
19           Settlement Procedures Act (12 U.S.C. 2601 et  
20           seq.).

21           (B) Proof that the applicant has satisfied a  
22           pre-licensing education requirement of at least 8  
23           credit hours on the subjects set forth in subparagraph  
24           (A) of this paragraph prior to taking the examination  
25           required by the Secretary.

26           (C) For initial applicants, the requirements in

1           subparagraphs (A) and (B) of this paragraph must be  
2           met prior to filing the application, unless proof is  
3           provided with the application that the applicant is  
4           exempt pursuant to subsection (c-10), (c-15), or  
5           (c-20).

6           (c-10) Applicants who are attorneys in good standing and  
7           currently registered with the Attorney Registration and  
8           Disciplinary Commission of the Supreme Court of Illinois are  
9           exempt from the requirements in subparagraphs (A) and (B) of  
10           paragraph (4).

11           (c-15) Applicants holding a current title of Illinois  
12           Title Professional or Illinois Escrow Professional issued by  
13           the Illinois Land Title Association or a current National  
14           Title Professional designation issued by the American Land  
15           Title Association are exempt from the requirements in  
16           subparagraphs (A) and (B) of paragraph (4).

17           (c-20) Applicants that have previously been registered by  
18           a title insurance company as a title insurance agent for no  
19           less than 10 years before the effective date of this  
20           amendatory Act of the 103rd General Assembly are exempt from  
21           the requirements in subparagraphs (A) and (B) of paragraph  
22           (4).

23           (c-25) Every applicant shall obtain and maintain errors  
24           and omissions insurance or its equivalent, such as malpractice  
25           insurance covering title insurance agent services, in a  
26           coverage and deductible amount acceptable to the title



1 insurance company authorizing the agent, but in any event in  
2 an amount no less than \$250,000 per claim and an aggregate  
3 limit of \$500,000. A title insurance company shall not provide  
4 the insurance directly or indirectly on behalf of a title  
5 insurance agent. If errors and omissions insurance is  
6 unavailable generally, the Department shall adopt rules for  
7 alternative methods to comply with this paragraph.

8 (c-30) The Secretary shall review and approve all initial  
9 applications and renewal applications within a 30-day period  
10 from the date submitted by the applicant, unless the applicant  
11 has not met the requirements as set out in this Section. The  
12 Secretary shall notify any applicant of requirements that have  
13 not been met within a 60-day period.

14 (d) A license shall be renewed by the first day of February  
15 every 2 years by a filing with the Secretary. The applicable  
16 2-year renewal deadline shall occur on the first day of  
17 February of even-numbered years for agents whose last names or  
18 entities with names that begin with the letters A through M,  
19 and on the first day of February of odd-numbered years for  
20 agents whose last names or entities with names that begin with  
21 the letters N through Z. The years of the first renewal periods  
22 for agents registered prior to the effective date of this  
23 amendatory Act of the 103rd General Assembly shall be set  
24 forth in the rules adopted by the Secretary to implement this  
25 amendatory Act of the 103rd General Assembly. Supplemental  
26 filings for a new title insurance agent to be added between

1 license renewals shall be made from time to time in the manner  
2 provided by the Secretary. Licenses shall remain in effect  
3 during the applicable 2-year period unless revoked or  
4 suspended by the Secretary or voluntarily withdrawn by the  
5 title insurance agent, or the title insurance company.

6 (d-5) Agents applying for renewal must complete a  
7 continuing education requirement of at least 8 credit hours on  
8 the subjects set forth in subparagraph (A) of paragraph (4) of  
9 subsection (c-5) prior to submission of the renewal  
10 application. Proof the agent has completed the continuing  
11 education requirement must be submitted with the renewal  
12 application. Agents who are attorneys in good standing and  
13 currently registered with the Attorney Registration and  
14 Disciplinary Commission of the Supreme Court of Illinois are  
15 exempt from the requirements in this subsection (d-5) by  
16 virtue of satisfying their minimum continuing legal education  
17 requirement if at least 8 hours of the minimum continuing  
18 legal education requirement is fulfilled with topics related  
19 to real estate transactions or title insurance.

20 ~~Registration shall be made annually by a filing with the~~  
21 ~~Secretary; supplemental registrations for new title insurance~~  
22 ~~agents to be added between annual filings shall be made from~~  
23 ~~time to time in the manner provided by the Secretary;~~  
24 ~~registrations shall remain in effect unless revoked or~~  
25 ~~suspended by the Secretary or voluntarily withdrawn by the~~  
26 ~~registrant or the title insurance company.~~

1           (e) Funds deposited in connection with any escrows,  
2 settlements, or closings shall be deposited in a separate  
3 fiduciary trust account or accounts in a bank or other  
4 financial institution insured by an agency of the federal  
5 government unless the instructions provide otherwise. The  
6 funds shall be the property of the person or persons entitled  
7 thereto under the provisions of the escrow, settlement, or  
8 closing and shall be segregated by escrow, settlement, or  
9 closing in the records of the escrow agent. The funds shall not  
10 be subject to any debts of the escrowee and shall be used only  
11 in accordance with the terms of the individual escrow,  
12 settlement, or closing under which the funds were accepted.

13           Interest received on funds deposited with the escrow agent  
14 in connection with any escrow, settlement, or closing shall be  
15 paid to the depositing party unless the instructions provide  
16 otherwise.

17           The escrow agent shall maintain separate records of all  
18 receipts and disbursements of escrow, settlement, or closing  
19 funds.

20           The escrow agent shall comply with any rules adopted by  
21 the Secretary pertaining to escrow, settlement, or closing  
22 transactions.

23           (f) A title insurance agent shall not act as an escrow  
24 agent in a nonresidential real property transaction where the  
25 amount of settlement funds on deposit with the escrow agent is  
26 less than \$2,000,000 or in a residential real property

1 transaction unless the title insurance agent, title insurance  
2 company, or another authorized title insurance agent has  
3 committed for the issuance of title insurance in that  
4 transaction and the title insurance agent is authorized to act  
5 as an escrow agent on behalf of the title insurance company for  
6 which the commitment for title insurance has been issued. The  
7 authorization under the preceding sentence shall be given  
8 either (1) by an agency contract with the title insurance  
9 company which contract, in compliance with the requirements  
10 set forth in subsection (g) of this Section, authorizes the  
11 title insurance agent to act as an escrow agent on behalf of  
12 the title insurance company or (2) by a closing protection  
13 letter in compliance with the requirements set forth in  
14 Section 16.1 of this Act, issued by the title insurance  
15 company to the seller, buyer, borrower, and lender. A closing  
16 protection letter shall not be issued by a title insurance  
17 agent. The provisions of this subsection (f) shall not apply  
18 to the authority of a title insurance agent to act as an escrow  
19 agent under subsection (g) of Section 17 of this Act.

20 (g) If an agency contract between the title insurance  
21 company and the title insurance agent is the source of the  
22 authority under subsection (f) of this Section for a title  
23 insurance agent to act as escrow agent for a real property  
24 transaction, then the agency contract shall provide for no  
25 less protection from the title insurance company to all  
26 parties to the real property transaction than the title

1 insurance company would have provided to those parties had the  
2 title insurance company issued a closing protection letter in  
3 conformity with Section 16.1 of this Act.

4 (h) A title insurance company shall be liable for the acts  
5 or omissions of its title insurance agent as an escrow agent if  
6 the title insurance company has authorized the title insurance  
7 agent under subsections (f) and (g) of this Section 16 and only  
8 to the extent of the liability undertaken by the title  
9 insurance company in the agency agreement or closing  
10 protection letter. The liability, if any, of the title  
11 insurance agent to the title insurance company for acts and  
12 omissions of the title insurance agent as an escrow agent  
13 shall not be limited or otherwise modified because the title  
14 insurance company has provided closing protection to a party  
15 or parties to a real property transaction escrow, settlement,  
16 or closing. The escrow agent shall not charge a fee for  
17 protection provided by a title insurance company to parties to  
18 real property transactions under subsections (f) and (g) of  
19 this Section 16 and Section 16.1, but shall collect from the  
20 parties the fee charged by the title insurance company and  
21 shall promptly remit the fee to the title insurance company.  
22 The title insurance company may charge the parties a  
23 reasonable fee for protection provided pursuant to subsections  
24 (f) and (g) of this Section 16 and Section 16.1 and shall not  
25 pay any portion of the fee to the escrow agent. The payment of  
26 any portion of the fee to the escrow agent by the title

1 insurance company, shall be deemed a prohibited inducement or  
2 compensation in violation of Section 24 of this Act.

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

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. Education and testing providers.

11 (a) No person, firm, association, partnership, or  
12 corporation may operate as a pre-licensing or continuing  
13 education provider or administer examinations unless the  
14 provider holds a certification issued by the Department. The  
15 Department shall adopt rules regarding the approval of  
16 education and examination providers.

17 (b) Upon receipt of a properly executed application for  
18 certification, the Department shall investigate the  
19 qualifications of the provider applicant to determine whether  
20 to grant or deny the application for certification. The  
21 Department shall acknowledge receipt of the application within  
22 30 days. If the Department has failed to notify the provider  
23 applicant of approval or basis for denial within 60 days after  
24 the date on which the Department acknowledged receipt of the  
25 application for certification, the approval of the Department

1 shall be deemed to have been given.

2 (c) A certificate issued to a provider shall be valid for 5  
3 years.

4 (d) A provider holding a provider certificate shall submit  
5 to the Department materials for courses of study and testing  
6 for approval. Upon receipt of materials, the Department shall  
7 review the materials for compliance with subparagraph (A) of  
8 paragraph (4) of subsection (c-5) of Section 16. Upon receipt  
9 of properly submitted materials, the Department shall  
10 acknowledge the receipt of the materials within 30 days. If  
11 the Department has failed to notify the provider of approval  
12 or the basis for denial of the materials within 60 days of the  
13 date on which the Department acknowledged receipt of the  
14 materials, the approval of the Department shall be deemed to  
15 have been given.

16 (e) If a provider wishes to substantially change approved  
17 materials for courses of study or testing, a copy of the  
18 proposed revisions must be sent to the Department for  
19 approval. The Department shall acknowledge receipt of the  
20 proposed revisions within 30 days. If the Department has  
21 failed to notify the provider within 60 days of the date on  
22 which the Department acknowledged receipt of the proposed  
23 revisions, the approval of the Department shall be deemed to  
24 have been given.

25 (f) The Department shall adopt rules regarding minimum  
26 standards for pre-licensing education, continuing education,

1 and testing and may biennially review and approve  
2 pre-licensing education, continuing education, and testing  
3 content from approved providers.

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.