103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1899

Introduced 2/9/2023, by Sen. Michael W. Halpin

SYNOPSIS AS INTRODUCED:

215 ILCS 155/3	from Ch. 73, par. 1403
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 the amendatory Act may be referred to as the Title Insurance Reform Act of 2023. 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that a certificate of authority shall remain in effect unless revoked or suspended by the Secretary or voluntarily withdrawn by the holder, or when the holder of the certificate of authority is no longer authorized as a title insurance agent of a title insurance company.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. 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. Effective immediately.

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1 AN ACT concerning regulation.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

4 Section 1. This Act may be referred to as the Title 5 Insurance Reform Act of 2023.

6 Section 5. The Title Insurance Act is amended by changing 7 Sections 3 and 16 and by adding Sections 15.2, 16.2, and 17.2 8 as follows:

9 (215 ILCS 155/3) (from Ch. 73, par. 1403)

10 Sec. 3. As used in this Act, the words and phrases 11 following shall have the following meanings unless the context 12 requires otherwise:

13 (1) "Title insurance business" or "business of title 14 insurance" means:

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

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

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

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1 (ii) quaranteeing, warranting, or otherwise 2 insuring the correctness of title searches for all 3 instruments affecting titles to real property, any interest in real property, cooperative units and 4 5 proprietary leases, and for all liens or charges 6 affecting the same; 7 (iii) handling of escrows, settlements, or 8 closings; 9 (iv) executing title insurance policies; 10 (v) effecting contracts of reinsurance;

11 (vi) abstracting, searching, or examining titles; 12 or

13 (vii) issuing insured closing letters or closing
14 protection letters;

15 (C) Guaranteeing, warranting, or insuring searches or 16 examinations of title to real property or any interest in 17 real property, with the exception of preparing an 18 attorney's opinion of title; or

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

23 (E) Doing or proposing to do any business 24 substantially equivalent to any of the activities listed 25 in this subsection, provided that the preparation of an 26 attorney's opinion of title pursuant to paragraph (1)(C) - 3 - LRB103 25292 BMS 51637 b

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is not intended to be within the definition of "title insurance business" or "business of title insurance".

(1.5) "Title insurance" means insuring, guaranteeing, 3 warranting, or indemnifying owners of real or personal 4 5 property or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by 6 reason of liens, encumbrances upon, defects in, or the 7 8 unmarketability of the title to the property; the invalidity 9 or unenforceability of any liens or encumbrances thereon; or 10 doing any business in substance equivalent to any of the 11 foregoing. "Warranting" for purpose of this provision shall 12 include any warranty contained in instruments of not 13 encumbrance or conveyance. Title insurance is a single line form of insurance, also known as monoline. An attorney's 14 15 opinion of title pursuant to paragraph (1)(C) is not intended 16 to be within the definition of "title insurance".

17 (2) "Title insurance company" means any domestic company 18 organized under the laws of this State for the purpose of 19 conducting the business of title insurance and any title 20 insurance company organized under the laws of another State, 21 the District of Columbia or foreign government and authorized 22 to transact the business of title insurance in this State.

(3) "Title insurance agent" means a person, firm,
 partnership, association, corporation or other legal entity
 that is the holder of a certificate of authority provided
 pursuant to Section 16 and that is authorized registered by a

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title insurance company to solicit title insurance, collect 1 2 title insurance premiums and endorsement charges, perform core title services, and, if authorized by a title insurance 3 company, and authorized by such company to determine 4 5 insurability of title in accordance with generally acceptable underwriting rules and standards in reliance on either the 6 7 public records or a search package prepared from a title 8 plant, or both, and authorized by such title insurance company 9 in addition to do any of the following: act as an escrow agent 10 pursuant to Sections subsections (f), (g), and (h) of Section 11 16, 16.1, and 16.2 of this Act, solicit title insurance, 12 collect premiums, or issue title insurance commitments, policies, and endorgements of the title insurance company; 13 provided, however, the term "title insurance agent" shall not 14 15 include officers and salaried employees of any title insurance 16 company.

(4) "Producer of title business" is any person, firm, 17 partnership, association, corporation or other legal entity 18 engaged in this State in the trade, business, occupation or 19 20 profession of (i) buying or selling interests in real property, (ii) making loans secured by interests in real 21 22 property, or (iii) acting as broker, agent, attorney, or 23 representative of natural persons or other legal entities that buy or sell interests in real property or that lend money with 24 25 such interests as security.

26 (5) "Associate" is any firm, association, partnership,

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corporation or other legal entity organized for profit in 1 2 which a producer of title business is a director, officer, or partner thereof, or owner of a financial interest, as defined 3 herein, in such entity; any legal entity that controls, is 4 5 controlled by, or is under common control with a producer of 6 title business; and any natural person or legal entity with 7 whom a producer of title business has any agreement, 8 arrangement, or understanding or pursues any course of conduct 9 the purpose of which is to evade the provisions of this Act.

10 (6) "Financial interest" is any ownership interest, legal11 or beneficial, except ownership of publicly traded stock.

12 (7) "Refer" means to place or cause to be placed, or to 13 exercise any power or influence over the placing of title 14 business, whether or not the consent or approval of any other 15 person is sought or obtained with respect to the referral.

16 (8) "Escrow Agent" means any title insurance company or 17 any title insurance agent, including independent contractors of either, acting on behalf of a title insurance company, 18 which receives deposits, in trust, of funds or documents, or 19 both, for the purpose of effecting the sale, transfer, 20 encumbrance or lease of real property to be held by such escrow 21 22 agent until title to the real property that is the subject of 23 the escrow is in a prescribed condition. An escrow agent conducting closings shall be subject to the provisions of 24 25 Sections paragraphs (1) through (4) of subsection (e) of Section 16, 16.1, and 16.2 of this Act. 26

"Independent Escrowee" means 1 (9) any firm, person, 2 partnership, association, corporation or other legal entity, 3 other than a title insurance company or a title insurance which receives deposits, in trust, of funds or 4 agent, 5 documents, or both, for the purpose of effecting the sale, transfer, encumbrance or lease of real property to be held by 6 7 such escrowee until title to the real property that is the 8 subject of the escrow is in a prescribed condition. Federal 9 and State chartered banks, savings and loan associations, 10 credit unions, mortgage bankers, banks or trust companies 11 authorized to do business under the Illinois Corporate 12 Fiduciary Act, licensees under the Consumer Installment Loan 13 Act, real estate brokers licensed pursuant to the Real Estate License Act of 2000, as such Acts are now or hereafter amended, 14 15 and licensed attorneys when engaged in the attorney-client 16 relationship are exempt from the escrow provisions of this 17 Act. "Independent Escrowee" does not include employees or independent contractors of a title insurance company or title 18 19 insurance agent authorized by a title insurance company to 20 perform closing, escrow, or settlement services.

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

7 (11) "Department" means the Department of Financial and8 Professional Regulation.

9 (12) "Secretary" means the Secretary of Financial and10 Professional Regulation.

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

4 (14) "Residential real property" means a building or 5 buildings consisting of one to 4 residential units or a 6 residential condominium unit where at least one of the 7 residential units or condominium units is occupied or intended 8 to be occupied as a residence by the purchaser or borrower, or 9 in the event that the purchaser or borrower is the trustee of a 10 trust, by a beneficiary of that trust.

11 (15) "Financial institution" means any bank subject to the 12 Illinois Banking Act, any savings and loan association subject to the Illinois Savings and Loan Act of 1985, any savings bank 13 14 subject to the Savings Bank Act, any credit union subject to the Illinois Credit Union Act, and any federally chartered 15 16 commercial bank, savings and loan association, savings bank, 17 or credit union organized and operated in this State pursuant to the laws of the United States. 18

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(16) "Core title services" means:

20 <u>(A) review and evaluation of title, tax, judgment,</u> 21 <u>lien, and other searches or search products, private title</u> 22 <u>plant records, records of grantor-grantee and other</u> 23 <u>indices, public records and other records, and any other</u> 24 <u>information and materials which are relevant to a</u> 25 <u>particular property and transaction to determine</u> 26 <u>insurability of title to the property;</u>

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1	(B) issuance of title commitments on behalf of a title
2	insurance company, including the determination of the
3	conditions under which the title insurance company will
4	issue the required title insurance policies;
5	(C) determination of, in accordance with applicable
6	law and the title insurance company's underwriting
7	requirements, principles, or guidelines, whether or not
8	underwriting objections stated on the title insurance
9	commitments may be cleared and the circumstances under
10	which the objections will be waived or insured before
11	issuance of the title insurance policies; and
12	(D) issuance of required title insurance policies when
13	all conditions for the issuance have been satisfied.
14	(17) "Title search" means any abstract of title, tract,
15	tax, judgment, or lien searches, limited purpose searches, and
16	any other searches and search products, private title plant
17	records, records of grantor-grantee and other indices, public
18	records and other records, property inspections, records
19	related to the status of title to land, and any other
20	information, materials, and transactions that are relevant to
21	a particular residential real property.
22	(Source: P.A. 100-485, eff. 9-8-17.)
23	(215 ILCS 155/15.2 new)
24	Sec. 15.2. Title insurance company duties.
25	(a) This Section applies only to transactions involving

25 (a) This Section applies only to transactions involving

1 <u>residential real property.</u>

2	(b) In the conduct of its title insurance business, every
3	title insurance company shall:
4	(1) Post and publish its current rates and charges
5	associated with its title insurance business with a clear
6	and complete description thereof; including, without
7	limitation, title insurance premiums, endorsements to
8	policies, fees for services as an escrow agent, and all
9	other services and products it provides; conspicuously in
10	its offices and on its websites, social media, and
11	digital, electronic, online, and any other platforms and
12	places that are intended to be visited or viewed by the
13	public. Title insurance companies must also provide their
14	registered title insurance agents with the posted and
15	published rates and charges. A title insurance company
16	must not make a charge which exceeds its published rates
17	and charges. This subsection (b) does not apply to special
18	risk title insurance and endorsement premiums, general
19	advertising, and marketing in media not controlled by the
20	title insurance company, but any such advertising shall
21	contain information, such as an Internet web address or a
22	hyperlink, to a website where the published rates and
23	charges can be viewed by the public.
24	(2) Require all of its title insurance agents to
25	norform at a minimum in each transaction all core title

25 perform, at a minimum in each transaction, all core title
26 services as a condition to that title insurance agent's

1 compensation as set forth in the agency contract, and may 2 not interfere with, assume in whole or in part, or prevent 3 the title insurance agent's performance of any core title 4 service.

5 (3) Agree upon the terms of the agency in writing with 6 its title insurance agents; the terms shall include that 7 the title insurance agent must perform, at a minimum, all 8 core title services as a condition of the title insurance 9 agent's compensation for each title insurance product and 10 endorsement issued and the compensation that the title 11 insurance agent shall receive for the performance of such 12 core title services. Compensation to the title insurance 13 agent for the performance of core title services shall be 14 as stated in the written agency contract.

15 <u>(4) Share title insurance premiums and endorsement</u>
 16 <u>charges only with its title insurance agent performing the</u>
 17 <u>core title services in a transaction.</u>

18 (5) Agree in writing with any title insurance agent to 19 which the title insurance company provides products or 20 services that are not core title services but are related 21 to the title insurance agent's performance of core title 22 services and are included in the cost of the title 23 insurance premiums and endorsements, such as, if 24 applicable, title searches, underwriting research 25 assistance, quality control, document recording, retention of title documentation, commitment and policy typing, or 26

1 <u>other products and services to the title insurance agent;</u> 2 <u>the written agreement must set forth, at a minimum, a</u> 3 <u>description of the products and services to be provided</u> 4 <u>and the compensation to be paid for such products and</u> 5 <u>services; such compensation must be commensurate with the</u> 6 <u>actual value of the products and services.</u>

7 <u>(6) Retain any remedy or right of action against its</u> 8 <u>title insurance agent as provided in any law, rule, or</u> 9 <u>regulation for the title insurance agent's failure to</u> 10 <u>perform its obligations under the written agency contract,</u> 11 <u>underwriting requirements, or otherwise as provided by</u> 12 <u>law.</u>

13 (c) In any residential real property transaction in which 14 a title insurance company acts as an escrow agent pursuant to 15 any provision in this Act:

16 (1) A title insurance company's current rates and 17 charges for its products and services rendered as an 18 escrow agent must be included in the posting and 19 publication provided for in subsection (b).

20 (2) A title insurance company shall disburse all title
21 insurance premiums and endorsement charges as directed by
22 the title insurance agent performing core title services
23 under Section 16.2 at the time of settlement or closing.
24 The disbursements shall be in accordance with the written
25 agency or other contracts between the title insurance
26 agent and the title insurance company acting as the escrow

1	agent in the transaction and the distributions shall be
2	clearly and unambiguously disclosed on any applicable
3	closing disclosure or settlement statement and delivered
4	to the parties to the transaction at the time of closing or
5	settlement.
6	(3) A title insurance company shall not share or allow
7	to be shared, either directly or indirectly, any of its
8	compensation for its service as an escrow agent or other
9	products or services with any title insurance agent except
10	as provided in this Section. Any payment which is contrary
11	to this paragraph (3) is a prohibited inducement or
12	compensation for a referral in violation of Section 24.
13	(d) Nothing in this Section shall be construed to restrict
14	or impair a title insurance company's right or ability to
15	determine and promulgate its underwriting requirements,
16	principles, and conditions for insuring any risk that would be
17	covered in a policy of insurance or an endorsement to a policy,
18	or to educate, instruct, or inform its title insurance agents
19	as to its underwriting requirements generally or in a
20	particular transaction or otherwise. Nothing in this Section
21	shall be construed to restrict or impair a title insurance
22	company's right or ability to determine and charge special
23	risk title insurance and endorsement premiums that are
24	different from the posted or published rates and premiums, or
25	to waive or vary from its title insurance underwriting
26	requirements, principles, and conditions for insuring any risk

1 that would be covered in a policy of insurance or an 2 endorsement to a policy in any given case as it, in its sole 3 discretion, may decide.

4 (215 ILCS 155/16) (from Ch. 73, par. 1416)

5 Sec. 16. Title insurance agents.

6 (a) No person, firm, partnership, association, corporation 7 or other legal entity shall act as or hold itself out to be a 8 title insurance agent without first procuring a certificate of authority from the Secretary. A certificate of authority shall 9 10 remain in effect unless revoked or suspended by the Secretary, 11 voluntarily withdrawn by the holder, or the holder of the 12 certificate of authority is no longer authorized as a title insurance agent of a title insurance company unless duly 13 14 registered by a title insurance company with the Secretary.

15 (b) Each application for <u>a certificate of authority</u> 16 registration shall be made on a form specified by the 17 Secretary and prepared by each title insurance company which 18 the agent represents. The title insurance company shall retain 19 the copy of the application and forward a copy to the 20 Secretary.

(c) Every applicant for <u>a certificate of authority</u> registration, except a firm, partnership, association, limited liability company, or corporation, must be 18 years or more of age. Included in every application for <u>a certificate of</u> <u>authority registration</u> of a title insurance agent, including a

firm, partnership, association, limited liability company, or 1 2 corporation, shall be an affidavit of the applicant title insurance agent, signed and notarized in front of a notary 3 public, affirming that the applicant and every owner, officer, 4 5 director, principal, member, or manager of the applicant has 6 never been convicted or pled quilty to any felony or 7 misdemeanor involving a crime of theft or dishonesty or otherwise accurately disclosing any such felony or misdemeanor 8 9 involving a crime of theft or dishonesty. No person who has had 10 a conviction or pled guilty to any felony or misdemeanor 11 involving theft or dishonesty may qualify for a certificate of 12 authority be registered by a title insurance company without a 13 written notification to the Secretary disclosing the conviction or plea, and no such person may serve as an owner, 14 officer, director, principal, or manager of any registered 15 16 title insurance agent without the written permission of the 17 Secretary.

(d) Every applicant that is not duly registered as a title 18 19 insurance agent on the effective date of this amendatory Act 20 of the 103rd General Assembly shall: Registration shall be 21 made annually by a filing with the Secretary; supplemental 22 registrations for new title insurance agents to be added 23 between annual filings shall be made from time to time in the manner provided by the Secretary; registrations shall remain 24 25 in effect unless revoked or suspended by the Secretary or 26 voluntarily withdrawn by the registrant or the title insurance

1	company.
2	(1) Successfully complete a 4-year course of study in
3	a high school or secondary school approved by the state in
4	which the school is located, or possess a State of
5	Illinois High School Diploma, which shall be verified
6	under oath by the applicant.
7	(2) Pass an examination that is designed to determine
8	the competency of the applicant to conduct the business of
9	a title agent and knowledge of basic real property law and
10	title insurance procedures. The applicant shall file with
11	its application satisfactory proof that the applicant has
12	passed the competency examination. The Department shall
13	have the authority to adopt administrative rules to
14	approve testing providers, establish the testing
15	procedures, including, but not limited to, the
16	requirements for passing the examination, and the content
17	of the examination that shall, at a minimum, determine the
18	competency of an applicant in the following subject
19	matters and any other subject matter which the Secretary
20	may determine to be basic and essential to the competent
21	conduct of the business of a title insurance agent, which
22	must include, at a minimum:
23	(i) the Title Insurance Act and its requirements;
24	(ii) Illinois real property law, including, but
25	not limited to, forms of ownership, conveyancing,
26	transfers on death, taxes, judgments, liens, surveys;

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1	(iii) basic knowledge of the federal Real Estate
2	Settlement Procedures Act;
3	(iv) core title services; and
4	(v) title examinations and methods, title
5	objections, policy and endorsement forms, waivers of
6	policy exceptions, and escrow procedures.
7	
	(e) The requirements of subsection (d) do not apply to
8	applicants who are admitted to practice law by the Supreme
9	Court of Illinois and who are in active standing.
10	(f) The Secretary shall issue a certificate of authority
11	to conduct business as a title insurance agent upon
12	determination that an applicant has passed the required
13	examination and is otherwise in compliance with this Act and
14	all applicable laws.
15	(g) Any title insurance agent who is registered on the
16	effective date of this amendatory Act of the 103rd General
17	Assembly may continue to conduct the business of title
18	insurance as a title insurance agent for a period of 90 days
19	after the effective date of this amendatory Act of the 103rd
20	General Assembly and shall be issued a certificate of
21	authority upon the filing by a title insurance company with
22	the Secretary a written agency agreement that complies with
23	this Act within 90 days after the effective date of this
24	amendatory Act of the 103rd General Assembly.
25	(h) A title insurance company shall annually file with the
26	Secretary a list of all title insurance agents authorized to

1 conduct the business of title insurance as an agent of the title insurance company. Supplemental filings for new title 2 3 insurance agents to be added between annual filings shall be made from time to time in the manner provided by the Secretary. 4 5 A title insurance company shall immediately notify the Secretary of any title insurance agent whose agency has been 6 7 terminated, and shall immediately file with the Secretary any 8 new title insurance agency agreement that replaces an 9 agreement already on file or which has been revised or amended 10 in any way.

11 (i) The Secretary shall maintain a database of title 12 insurance agents in good standing on a publicly accessible 13 website that any person may use to verify the authority of a 14 particular title insurance agent.

15 (j) (e) Funds deposited in connection with any escrows, 16 settlements, or closings shall be deposited in a separate 17 fiduciary trust account or accounts in a bank or other financial institution insured by an agency of the federal 18 government unless the instructions provide otherwise. The 19 20 funds shall be the property of the person or persons entitled thereto under the provisions of the escrow, settlement, or 21 22 closing and shall be segregated by escrow, settlement, or 23 closing in the records of the escrow agent. The funds shall not be subject to any debts of the escrowee and shall be used only 24 25 in accordance with the terms of the individual escrow, 26 settlement, or closing under which the funds were accepted.

1 Interest received on funds deposited with the escrow agent 2 in connection with any escrow, settlement, or closing shall be 3 paid to the depositing party unless the instructions provide 4 otherwise.

5 The escrow agent shall maintain separate records of all 6 receipts and disbursements of escrow, settlement, or closing 7 funds.

8 The escrow agent shall comply with any rules adopted by 9 the Secretary pertaining to escrow, settlement, or closing 10 transactions.

11 (k) A title insurance agent shall not act as an escrow 12 agent in a residential real property transaction unless the 13 title insurance agent files with the Secretary and the 14 Secretary approves cash or bonds of the United States, this State, or any body politic of this State in the amounts 15 specified in subsection (1). The deposit is not to be 16 17 otherwise pledged or subject to distribution among creditors or stockholders until all claims of escrow depositors have 18 been paid in full or discharged, reinsured, or otherwise 19 20 assumed by a title insurance company authorized to do business under this Act. The cash, bonds, and securities so deposited 21 22 may be exchanged for other such securities. No such cash, 23 bond, or security shall be sold or transferred by the 24 Secretary except on order of the circuit court or as provided 25 in subsection (o). The company shall be permitted to receive from the Secretary the interest on the deposit as long as the 26

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company depositing such securities remains solvent.

(1) The deposit required under subsection (k) must have a
then current value of \$500,000. All deposits shall be held for
the benefit of any named party to a written escrow it accepted.
The deposit is not to be otherwise pledged or subject to
distribution among creditors or stockholders.

7 (m) The Secretary may provide for custody of the deposits 8 by any trust company or bank located in this State and 9 qualified to do business under the Corporate Fiduciary Act. 10 The compensation, if any, of such custodian shall be paid by 11 the depositing company. When the required deposits have been 12 made by a title insurance agent that intends to act as an escrow agent in any residential real property transaction, the 13 14 Secretary shall certify that the title insurance agent has complied with the provisions of this Section and is authorized 15 16 to transact the business of a title insurance agent acting as 17 an escrow agent in residential real property transactions.

(n) Before doing business in the State of Illinois in a 18 19 residential real property transaction, an escrow agent must file with and have approved by the Secretary proof of a 20 21 fidelity bond in the minimum amount of \$1,000,000 per 22 occurrence, errors and omissions insurance in the minimum 23 amount of \$1,000,000 per occurrence, and cybercrime insurance 24 coverage in the minimum amount of \$500,000 per occurrence. The 25 insurance policies required shall be issued by insurers that 26 are authorized to conduct such insurance business in the State of Illinois. The title insurance agent may not conduct title insurance business as an escrow agent unless the deposit, fidelity bond, errors and omissions insurance, and cybercrime insurance coverage required by this Section are continuously maintained.

6 (o) The Secretary may revoke the certificate of authority 7 of a title insurance agent acting as an escrow agent that fails to maintain the deposit, fidelity bond, errors and omissions 8 9 insurance, or cybercrime insurance coverage required by this 10 Section. The Secretary shall give notice of that revocation to 11 such title insurance agent as provided by this Act, and during 12 the time of the revocation the title insurance agent may not 13 conduct any title insurance business as an escrow agent. A 14 revocation shall not be set aside until the title insurance 15 agent has filed with and has been approved by the Secretary in accordance with the requirements of this Section and the title 16 17 insurance agent is otherwise in compliance with this Act.

(p) (f) A title insurance agent shall not act as an escrow 18 19 agent in a nonresidential real property transaction where the 20 amount of settlement funds on deposit with the escrow agent is less than \$2,000,000 or in a residential real property 21 22 transaction unless the title insurance agent, title insurance 23 company, or another authorized title insurance agent has committed for the issuance of title insurance in that 24 25 transaction and the title insurance agent is authorized to act 26 as an escrow agent on behalf of the title insurance company for

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

15 (q) $\frac{}{}$ (q) If an agency contract between the title insurance 16 company and the title insurance agent is the source of the 17 authority under subsection (p) (f) of this Section for a title insurance agent to act as escrow agent for a real property 18 19 transaction, then the agency contract shall provide for no 20 less protection from the title insurance company to all 21 parties to the real property transaction than the title 22 insurance company would have provided to those parties had the 23 title insurance company issued a closing protection letter in conformity with Section 16.1 of this Act. 24

25 (r) (h) A title insurance company shall be liable for the
 acts or omissions of its title insurance agent as an escrow

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agent if the title insurance company has authorized the title 1 2 insurance agent under subsections (p) through (q) (f) and (g) of this Section 16 and only to the extent of the liability 3 undertaken by the title insurance company in the agency 4 5 agreement or closing protection letter. The liability, if any, of the title insurance agent to the title insurance company 6 for acts and omissions of the title insurance agent as an 7 8 escrow agent shall not be limited or otherwise modified 9 because the title insurance company has provided closing 10 protection to a party or parties to a real property 11 transaction escrow, settlement, or closing. The escrow agent 12 shall not charge a fee for protection provided by a title 13 insurance company to parties to real property transactions 14 under subsections (p) through (q) (f) and (g) of this Section 15 16 and Section 16.1, but shall collect from the parties the fee 16 charged by the title insurance company and shall promptly 17 remit the fee to the title insurance company. The title insurance company may charge the parties a reasonable fee for 18 19 protection provided pursuant to subsections (p) through (q) 20 (f) and (g) of this Section 16 and Section 16.1 and shall not 21 pay any portion of the fee to the escrow agent. The payment of 22 any portion of the fee to the escrow agent by the title 23 insurance company, shall be deemed a prohibited inducement or compensation in violation of Section 24 of this Act. 24

25 <u>(s)</u> (i) The Secretary shall adopt and amend such rules as 26 may be required for the proper administration and enforcement

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1	of this Section 16 consistent with the federal Real Estate
2	Settlement Procedures Act and Section 24 of this Act.
3	(Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15;
4	99-104, eff. 1-1-16.)
5	(215 ILCS 155/16.2 new)
6	Sec. 16.2. Title insurance agent duties.
7	(a) This Section shall apply only to transactions
8	involving residential real property.
9	(b) In the conduct of its title insurance business, every
10	title insurance agent shall:
11	(1) Post and publish the current rates and charges of
12	each of its title insurance company principals, as
13	provided by the title insurance company, conspicuously in
14	its offices and on its websites, social media, and
15	digital, electronic, online, and any other platforms and
16	places that are intended to be visited or viewed by the
17	public. A title insurance agent shall not make a charge
18	that exceeds the published rates and charges. This
19	subsection (b) does not apply to special risk title
20	insurance and endorsements premiums, general advertising,
21	and marketing in media not controlled by the title
22	insurance agent, but any such advertising shall contain
23	information, such as an Internet web address or a
24	hyperlink, to a website where such published rates and
25	charges can be viewed by the public.

1	(2) Agree upon the terms of the agency in writing with
2	each title insurance company for which it is a registered
3	agent; the terms shall include that the title insurance
4	agent must perform, at a minimum, all core title services
5	as a condition of the title insurance agent's compensation
6	for each title insurance product and endorsement issued,
7	and the compensation that the title insurance agent shall
8	receive for the performance of such core title services.
9	Compensation received by the title insurance agent for the
10	performance of core title services shall not exceed that
11	which is stated in the written agency contract.
12	(3) Enter into an agreement in writing with any escrow
13	agent or title insurance agent that provides 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 title insurance and
17	endorsements premiums, such as, if applicable, title
18	searches, underwriting research assistance, quality
19	control, document recording, retention of title
20	documentation, commitment and policy typing, or other
21	products and services to the title insurance agent; the
22	agreement shall set forth, at a minimum, a description of

23 <u>the product and services to be provided and the</u> 24 <u>compensation to be paid for such products and services;</u> 25 <u>such compensation shall be commensurate with the actual</u> 26 <u>value of such products and services.</u>

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1	(4) Perform, at a minimum, all core title services;
2	core title services shall not be duplicative of any
3	professional or other service rendered in a transaction as
4	a condition of its compensation as set forth in the agency
5	agreement.
6	(5) Direct the escrow agent or independent escrowee as
7	to the disbursement at the time of settlement or closing
8	of title insurance premiums and endorsement charges to the
9	title insurance company in accordance with its agency
10	contract and to the escrow agent in accordance with its
11	written agreement. All such disbursements shall be clearly
12	and unambiguously disclosed on any applicable closing
13	disclosure and settlement statement and delivered to the
14	parties to the transaction at the time of closing or
15	settlement.
16	(6) Not share or allow to be shared, either directly
17	or indirectly, any of its compensation for any products or
18	services charged directly to a party in the transaction
19	with any other title insurance agent except as provided in
20	this Section. Any payment which is contrary to this
21	paragraph (6) is a prohibited inducement or compensation
22	for a referral in violation of Section 24.
23	(c) In any transaction in which a title insurance agent
24	acts as an escrow agent pursuant to Sections 16, 16.1, and 16.2
25	of this Act or any other provision in this Act:
26	(1) The title insurance agent's current rates and

1	charges for its products and services rendered as an
2	escrow agent shall be included in the posting and
3	publication provided for in subsection (b). An escrow
4	agent shall not make any charge that exceeds its published
5	rates and charges.
6	(2) The escrow agent shall disburse all title
7	insurance premiums and endorsement charges as directed by
8	the title insurance agent performing core title services
9	at the time of settlement or closing of the transaction.
10	The disbursement shall include payment for any products or
11	services that are not core title services but that are
12	related to the title insurance agent's performance of core
13	title services and are included in the cost of the title
14	insurance premiums and endorsements, such as, if
15	applicable, title searches, underwriting research
16	assistance, quality control, document recording, retention
17	of title documentation, commitment and policy typing, or
18	other products and services to the title insurance agent
19	that were supplied to the title insurance agent by an
20	escrow agent or other title insurance agent. The
21	disbursements shall be in accordance with the written
22	agency or other agreement between the title insurance
23	agent and escrow agent or other title insurance agent in
24	the transaction and the distributions shall be clearly and
25	unambiguously disclosed on any applicable closing
26	

1	parties to the transaction at the time of closing or
2	settlement.
3	(3) The escrow agent shall not share or allow to be
4	shared, either directly or indirectly, any of its
5	compensation for its service as an escrow agent or other
6	products or services charged directly to a party in the
7	transaction with any other title insurance agent except as
8	provided in this Section. Any payment that is contrary to
9	this paragraph (3) is a prohibited inducement or
10	compensation for a referral in violation of Section 24.
11	(215 ILCS 155/17.2 new)
12	Sec. 17.2. Independent escrowee duties.
12	
13	(a) This Section shall apply only to transactions
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13 14	(a) This Section shall apply only to transactions involving residential real property.
13 14 15	(a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing
13 14 15 16	 (a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or
13 14 15 16 17	 (a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or closing agent as provided in Section 17, every independent
13 14 15 16 17 18	 (a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or closing agent as provided in Section 17, every independent escrowee shall:
13 14 15 16 17 18 19	(a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or closing agent as provided in Section 17, every independent escrowee shall: (1) Post and publish the current rates and charges
13 14 15 16 17 18 19 20	(a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or closing agent as provided in Section 17, every independent escrowee shall: (1) Post and publish the current rates and charges associated with its performance of the services and
13 14 15 16 17 18 19 20 21	(a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or closing agent as provided in Section 17, every independent escrowee shall: (1) Post and publish the current rates and charges associated with its performance of the services and obligations as an independent escrowee and all other
13 14 15 16 17 18 19 20 21 21 22	(a) This Section shall apply only to transactions involving residential real property. (b) In the conduct of its escrow, settlement, or closing business, and its operation as an escrow, settlement, or closing agent as provided in Section 17, every independent escrowee shall: (1) Post and publish the current rates and charges associated with its performance of the services and obligations as an independent escrowee and all other services and products it provides with a clear and

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1	that are intended to be visited or viewed by the public. An
2	independent escrowee shall not make a charge that exceeds
3	the published rates and charges. This paragraph (1) shall
4	not apply to general advertising and marketing in media
5	not controlled by the independent escrowee, but any such
6	advertising shall contain information, such as an Internet
7	web address or a hyperlink, to a website where such
8	published rates and charges can be viewed by the public.

9 (2) Disburse all title insurance premiums and 10 endorsement charges as directed by the title insurance 11 agent performing core title services under subsection (c) 12 of Section 16.2 at the time of settlement or closing. All 13 such disbursements shall be clearly and unambiguously 14 disclosed on any applicable closing disclosure or settlement statement and delivered to the parties to the 15 16 transaction at the time of closing or settlement.

17 (c) An independent escrowee shall not share or allow to be 18 shared any of its compensation for its escrow and settlement 19 services with any title insurance company or title insurance 20 agent except as provided in this Section. Any payment that is 21 contrary to this subsection (c) is a prohibited inducement or 22 compensation for a referral in violation of Section 24.

23 Section 99. Effective date. This Act takes effect upon 24 becoming law.