



Rep. Daniel J. Burke

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LRB093 15871 AMC 51779 a

1 AMENDMENT TO SENATE BILL 2239

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2239 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Title Insurance Act is amended by changing  
5 Sections 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 16, 17, 18, 21,  
6 and 23, and by adding Sections 4.1, 21.1, 21.2, and 21.3 as  
7 follows:

8 (215 ILCS 155/2) (from Ch. 73, par. 1402)

9 Sec. 2. Application of Act. Any corporation which has been  
10 or shall be incorporated or qualified to do business under the  
11 Business Corporation Act of 1983, as now or hereafter amended,  
12 or any predecessor law for the purpose, in whole or part, of  
13 doing the business of title insurance ~~guaranteeing or insuring~~  
14 ~~titles to real estate~~, may transact such business during the  
15 time for which it may be incorporated or qualified to do  
16 business in this State, subject to the requirements of this  
17 Act.

18 (Source: P.A. 86-239.)

19 (215 ILCS 155/3) (from Ch. 73, par. 1403)

20 Sec. 3. Definitions. As used in this Act, the words and  
21 phrases following shall have the following meanings unless the  
22 context requires otherwise:

23 (1) "Title insurance business" or "business of title

1 insurance" means:

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

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

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

10 (ii) guaranteeing, warranting, or otherwise  
11 insuring the correctness of title searches for all  
12 instruments affecting titles to real property, any  
13 interest in real property, cooperative units and  
14 proprietary leases, and for all liens or charges  
15 affecting the same;

16 (iii) handling of escrows, settlements, or  
17 closings;

18 (iv) executing title insurance policies;

19 (v) effecting contracts of reinsurance;

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

21 or

22 (vii) issuing insured closing letters or closing  
23 protection letters;

24 (C) Guaranteeing, warranting, or insuring searches or  
25 examinations of title to real property or any interest in  
26 real property, with the exception of preparing an  
27 attorney's opinion of title; or

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

32 (E) Doing or proposing to do any business substantially  
33 equivalent to any of the activities listed in this  
34 subsection, provided that the preparation of an attorney's

1 opinion of title pursuant to paragraph (1)(C) is not  
2 intended to be within the definition of "title insurance  
3 business" or "business of title insurance".

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

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

24 (3) "Title insurance agent" means a person, firm,  
25 partnership, association, corporation or other legal entity  
26 registered by a title insurance company and authorized by such  
27 company to determine insurability of title in accordance with  
28 generally acceptable underwriting rules and standards in  
29 reliance on either the public records or a search package  
30 prepared from a title plant, or both, and authorized in  
31 addition to do any of the following: act as an escrow agent,  
32 solicit title insurance, collect premiums, issue title  
33 reports, binders or commitments to insure and policies in its  
34 behalf, provided, however, the term "title insurance agent"

1 shall not include officers and salaried employees of any title  
2 insurance company.

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

12 (5) "Associate" is any firm, association, partnership,  
13 corporation or other legal entity organized for profit in which  
14 a producer of title business is a director, officer, or partner  
15 thereof, or owner of a financial interest, as defined herein,  
16 in such entity; any legal entity that controls, is controlled  
17 by, or is under common control with a producer of title  
18 business; and any natural person or legal entity with whom a  
19 producer of title business has any agreement, arrangement, or  
20 understanding or pursues any course of conduct the purpose of  
21 which is to evade the provisions of this Act.

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

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

28 (8) "Escrow Agent" means any title insurance company or any  
29 title insurance agent, including independent contractors of  
30 either, acting on behalf of a title insurance company which  
31 receives deposits, in trust, of funds or documents, or both,  
32 for the purpose of effecting the sale, transfer, encumbrance or  
33 lease of real property to be held by such escrow agent until  
34 title to the real property that is the subject of the escrow is

1 in a prescribed condition. An escrow agent conducting closings  
2 is subject to the provisions of subsection (e) of Section 16.

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

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

34 (11) "Department" means the Department of Financial

1 Institutions.

2 (12) "Director" means the Director of Financial  
3 Institutions.

4 (13) "Insured closing letter" or "closing protection  
5 letter" means an indemnification or undertaking to a party to a  
6 real estate transaction, from a principal such as a title  
7 insurance company or similar entity, setting forth in writing  
8 the extent of the principal's responsibility for intentional  
9 misconduct or errors in closing the real estate transaction on  
10 the part of a settlement agent, such as a title insurance agent  
11 or other settlement service provider.

12 (14) "Monoline insurance" means title insurance that is a  
13 single line of insurance. Because of the unique risks assumed,  
14 a title insurance company must maintain its reserves for losses  
15 independent of any other form of insurance and therefore may  
16 not issue other lines of insurance.

17 (Source: P.A. 91-159, eff. 1-1-00; 91-245, eff. 12-31-99;  
18 92-16, eff. 6-28-01.)

19 (215 ILCS 155/4) (from Ch. 73, par. 1404)

20 Sec. 4. Deposits.

21 (a) Before doing business in the State of Illinois, a ~~Every~~  
22 title insurance company must file with and have approved by the  
23 Director cash or licensed or qualified to do business in this  
24 State shall, within 30 days after the effective date of this  
25 Act or within 30 days after incorporated or licensed to do  
26 business, whichever is later, deposit with the Department, for  
27 the benefit of the creditors of the company by reason of any  
28 policy issued by it, bonds of the United States, this State, or  
29 any body politic of this State in amounts as specified in  
30 subsection (b). The deposit is not to be otherwise pledged or  
31 subject to distribution among creditors or stockholders until  
32 all claims of escrow depositors, claims of policyholders, and  
33 claims under reinsurance contracts have been paid in full and

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

11 (b) The deposit must have a then current value of  
12 \$1,000,000. All deposits shall be held for the benefit of any  
13 insured under a policy it issued or named party to a written  
14 escrow it accepted. The deposit is not to be otherwise pledged  
15 or subject to distribution among creditors or stockholders.  
16 ~~Every title insurance company shall deposit bonds or securities~~  
17 ~~in the sum of \$50,000 plus \$5,000 for each county, more than~~  
18 ~~one, in which the real estate, upon which such policies are~~  
19 ~~issued, is located, to maximum deposit of \$500,000. Every title~~  
20 ~~insurance company guaranteeing or insuring titles to real~~  
21 ~~estate in counties having 500,000 or more inhabitants shall~~  
22 ~~deposit securities with the Department in the sum of \$500,000.~~  
23 ~~Any title insurance company having deposited \$500,000 in~~  
24 ~~securities with the Department shall be entitled to guarantee~~  
25 ~~or insure titles in any or all counties of the State.~~

26 (c) The Director may provide for custody of the deposits  
27 ~~such securities~~ by any trust company or bank located in this  
28 State and qualified to do business under the Corporate  
29 Fiduciary Act, as now or hereafter amended. The compensation,  
30 if any, of such custodian shall be paid by the depositing  
31 company. When the required deposits have ~~deposit has~~ been made  
32 by a title insurance company, the Director shall certify that  
33 the company ~~it~~ has complied with the provisions of this Section  
34 and is authorized to transact the business of insuring and

1     guaranteeing titles to real estate.

2           (d) If, at any time, a title insurance company causes ~~shall~~  
3 ~~at any time cause~~ all of its unexpired policies, escrow  
4 deposits, and reinsurance obligations in Illinois to be paid in  
5 full, cancelled, discharged, or reinsured, or otherwise ~~and all~~  
6 ~~of its liabilities under such policies thereby to be~~  
7 ~~extinguished, or to be~~ assumed by another title insurance ~~some~~  
8 ~~surety or other responsible~~ company authorized to do business  
9 under this Act in this State, the Director shall, upon ~~on~~  
10 application of the ~~such~~ company, verified by the oath of its  
11 president or secretary and on being satisfied by an examination  
12 of its books and its officers under oath that all of its  
13 policies are ~~so~~ paid in full, cancelled, discharged,  
14 ~~extinguished or reinsured, or otherwise assumed,~~ authorize the  
15 release of any bond or deposit posted under this Section  
16 ~~deliver up to it such securities.~~

17           (e) The Director may revoke the certificate of authority of  
18 a company that fails to maintain the deposit required by this  
19 Section. The Director shall give notice of that revocation to  
20 the company as provided by this Act and, during the time of the  
21 revocation, the company may not conduct a title insurance  
22 business. A company may complete contractual obligations, such  
23 as issuing a policy where the obligations have already been  
24 assumed. However, it may not solicit new business, complete new  
25 searches or examinations, or close transactions. A revocation  
26 shall not be set aside until a good and sufficient deposit has  
27 been filed with the Director and the company is otherwise in  
28 compliance with this Act.

29     (Source: P.A. 86-239.)

30           (215 ILCS 155/4.1 new)

31           Sec. 4.1. Minimum capital and surplus. Before doing  
32 business in the State of Illinois, a title insurance company  
33 must prove to the satisfaction of the Director that it has a



1 minimum capital and surplus of \$2,000,000. The Director may  
2 prescribe the forms and standards for this purpose by rule.

3 (215 ILCS 155/5) (from Ch. 73, par. 1405)

4 Sec. 5. Certificate of authority required. It is unlawful  
5 ~~shall not be lawful~~ for any company to engage or to continue in  
6 the business of title insurance ~~guaranteeing or insuring titles~~  
7 ~~to real estate,~~ without first procuring from the Director a  
8 certificate of authority stating that the ~~such a~~ company has  
9 complied with the requirements of Section 4 of this Act. An  
10 insurer that transacts any class of insurance other than title  
11 insurance anywhere in the United States is not eligible for the  
12 issuance of a certificate of authority to transact title  
13 insurance in this State or for renewal of such a certificate of  
14 authority. ~~If any company shall fail to maintain a deposit as~~  
15 ~~required by this Act, the Director may revoke the certificate~~  
16 ~~of authority granted on behalf of such company. The Director~~  
17 ~~shall mail a copy of that revocation to the company and during~~  
18 ~~the time of such revocation the company shall not conduct such~~  
19 ~~business. A revocation shall not be set aside until a good and~~  
20 ~~sufficient deposit shall have been made with the Department,~~  
21 ~~fulfilling all the requirements of this Act.~~

22 (Source: P.A. 86-239.)

23 (215 ILCS 155/6) (from Ch. 73, par. 1406)

24 Sec. 6. Reinsurance.

25 (a) A title insurance company may obtain reinsurance for  
26 all or any part of its liability under one or more of its title  
27 insurance policies or reinsurance agreements and may also  
28 reinsure title insurance policies issued by other title  
29 insurance companies on risks located in this State or  
30 elsewhere.

31 (b) A title insurance company licensed to do business in  
32 this State shall retain at least \$25,000 of primary liability

1 for policies it issues for the first 5 years after the date of  
2 the policy, unless a lesser sum is authorized by the Director.  
3 A lesser sum may be retained at the request of the insured.

4 (Source: P.A. 86-239.)

5 (215 ILCS 155/9) (from Ch. 73, par. 1409)

6 Sec. 9. Impairment of capital; discontinuance of issuance  
7 of new policies; penalty.

8 (a) Whenever the capital of a ~~any~~ title insurance company  
9 authorized to do business under this Act ~~is shall be~~ determined  
10 by the circuit court, upon the application of the Director, to  
11 ~~be have become~~ impaired to the extent of 25% of the capital  
12 ~~same~~, or to have otherwise become unsafe, ~~it shall be the duty~~  
13 ~~of the Director may to~~ cancel the authority of the such company  
14 to do business.

15 (b) The Director shall give notice as provided by this Act  
16 to the such company to discontinue doing business ~~issuing new~~  
17 ~~policies~~ until its such capital has been made good.

18 (c) Any officer or management employee who continues to  
19 take orders for title insurance or close transactions ~~issues a~~  
20 ~~new policy of title insurance~~ on behalf of a ~~such~~ company after  
21 a ~~such~~ notice to discontinue business, and before its until  
22 ~~such~~ capital has been made good, may shall, for each offense,  
23 be fined as provided by this Act ~~forfeit a sum not exceeding~~  
24 ~~\$1,000.~~

25 (Source: P.A. 86-239.)

26 (215 ILCS 155/10) (from Ch. 73, par. 1410)

27 Sec. 10. Reserves.

28 (a) All title insurance companies authorized to do business  
29 under this Act shall establish and maintain reserves against  
30 unpaid losses and loss expenses. Upon receiving notice from or  
31 on behalf of the insured of a title defect, lien or adverse  
32 claim against the title of the insured that may result in a

1 loss or cause expense to be incurred in the proper disposition  
2 of the claim, the title insurance company shall determine the  
3 amount to be added to the reserve, which amount shall reflect a  
4 careful estimate of the loss or loss expense likely to result  
5 by reason of the claim. Reserves required under this Section  
6 may be revised from time to time and shall be redetermined at  
7 least once each year.

8 (b) Title insurance is a monoline insurance and the  
9 reserves for losses may not be pledged or utilized for any  
10 other form of insurance.

11 (Source: P.A. 86-239.)

12 (215 ILCS 155/11) (from Ch. 73, par. 1411)

13 Sec. 11. Statutory premium reserve.

14 (a) A domestic title insurance company shall establish and  
15 maintain a statutory premium reserve computed in accordance  
16 with this Section. The reserve shall be reported as a liability  
17 of the title insurance company in its financial statements. The  
18 statutory premium reserve shall be maintained by the title  
19 insurance company for the protection of holders of title  
20 insurance policies. Except as provided in this Section, assets  
21 equal in value to the statutory premium reserve are not subject  
22 to distribution among creditors or stockholders of the title  
23 insurance company until all claims of policyholders or claims  
24 under reinsurance contracts have been paid in full, ~~and all~~  
25 ~~liability on the policies or reinsurance contracts has been~~  
26 ~~paid in full~~ and discharged, ~~or~~ lawfully reinsured, or  
27 otherwise assumed by another title insurance company  
28 authorized to do business under this Act.

29 (b) A foreign or alien title insurance company authorized  
30 to do business under this Act shall maintain at least the same  
31 reserves on title insurance policies issued on properties  
32 located in this State as are required of domestic title  
33 insurance companies.

1 (c) The statutory premium reserve shall consist of:

2 (1) the amount of the statutory premium reserve on  
3 January 1, 1990; and

4 (2) a sum equal to 12 1/2 cents for each \$1,000 of net  
5 retained liability under each title insurance policy on a  
6 single risk written on properties located in this State  
7 after January 1, 1990.

8 (d) Amounts placed in the statutory premium reserve in any  
9 year in accordance with this Section shall be deducted in  
10 determining the net profit of the title insurance company for  
11 that year.

12 (e) A title insurance company shall release from the  
13 statutory premium reserve a sum equal to 10% of the amount  
14 added to the reserve during a calendar year on July 1 of each  
15 of the 5 years following the year in which the sum was added,  
16 and shall release from the statutory premium reserve a sum  
17 equal to 3 1/3% of the amount added to the reserve during that  
18 year on each succeeding July 1 until the entire amount for that  
19 year has been released. The amount of the statutory premium  
20 reserve or similar premium reserve maintained before January 1,  
21 1990, shall be released in accordance with the law in effect  
22 before January 1, 1990.

23 (f) This reserve is not subject to the requirements of  
24 Section 4.

25 (Source: P.A. 86-239; 87-1151.)

26 (215 ILCS 155/12) (from Ch. 73, par. 1412)

27 Sec. 12. Examination; compliance.

28 (a) The Director or his authorized representative shall  
29 have the power and authority, and it shall be his duty, to  
30 cause to be visited and examined annually any title insurance  
31 company doing business under this Act, and to verify and compel  
32 ~~a compliance with the provisions of law governing it as he may~~  
33 ~~by law exercise in relation to trust companies.~~

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

15 (Source: P.A. 86-239.)

16 (215 ILCS 155/13) (from Ch. 73, par. 1413)

17 Sec. 13. Annual statement.

18 (a) A ~~Each~~ title insurance company shall file with the  
19 Department during the month of March of each year, a statement  
20 under oath, of the condition of such company on the  
21 thirty-first day of December next preceding disclosing the  
22 assets, liabilities, earnings and expenses of the company. The  
23 report shall be in such form and shall contain such additional  
24 statements and information as to the affairs, business, and  
25 conditions of the company as the Director may from time to time  
26 prescribe or require.

27 (b) By June 1 of each year, a title insurance company must  
28 file with the Department a copy of its most recent audited  
29 financial statements.

30 (Source: P.A. 86-239.)

31 (215 ILCS 155/14) (from Ch. 73, par. 1414)

32 Sec. 14. Fees.

1 (a) A ~~Every~~ title insurance company and an ~~every~~  
2 independent escrowee subject to this Act shall pay the  
3 following fees:

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

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

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

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

12 (5) for filing the annual statement, \$50; and ~~+~~

13 (6) for each examination \$500 per examiner per day or  
14 part of a day and actual travel costs incurred.

15 (b) Each title insurance company shall pay, for all of its  
16 title insurance agents subject to this Act for filing an annual  
17 registration of its agents, an amount equal to \$3 for each  
18 policy issued by all of its agents in the immediately preceding  
19 calendar year.

20 (Source: P.A. 93-32, eff. 7-1-03.)

21 (215 ILCS 155/16) (from Ch. 73, par. 1416)

22 Sec. 16. Title insurance agents.

23 (a) No person, firm, partnership, association, corporation  
24 or other legal entity shall act as or hold itself out to be a  
25 title insurance agent unless duly registered by a title  
26 insurance company with the Director.

27 (b) Each application for registration shall be made on a  
28 form specified by the Director and prepared in duplicate by  
29 each title insurance company which the agent represents. The  
30 title insurance company shall retain the copy of the  
31 application and forward the original to the Director with the  
32 appropriate fee.

33 (c) Every applicant for registration, except a firm,

1 partnership, association or corporation, must be 18 years or  
2 more of age.

3 (d) Registration shall be made ~~annually~~ by a filing with  
4 the Director; ~~supplemental registrations for new title~~  
5 ~~insurance agents to be added between annual filings shall be~~  
6 ~~made from time to time in the manner provided by the Director;~~  
7 registrations shall remain in effect unless revoked or  
8 suspended by the Director or are voluntarily withdrawn by the  
9 registrant or the title insurance company.

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

22 Interest received on funds deposited with the escrow agent  
23 in connection with any escrow, settlement, or closing shall be  
24 paid to the depositing party unless the instructions provide  
25 otherwise.

26 The escrow agent shall maintain separate records of all  
27 receipts and disbursements of escrow, settlement, or closing  
28 funds.

29 The escrow agent shall comply with any rules adopted by the  
30 Director pertaining to escrow, settlement, or closing  
31 transactions.

32 (f) A title insurance agent, not qualified as an  
33 independent escrowee, may act in the capacity of an escrow  
34 agent when it is supplying an abstract of title, grantor

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

12 Where a title insurance agent has been authorized by more  
13 than one title insurance company to act under this subsection,  
14 and where that title insurance agent is unable to pay a claim  
15 or loss arising from such business, then the balance of  
16 liability and expense shall become the shared liability of each  
17 such title insurance company in the proportion of title  
18 insurance premiums reported by the title insurance agent for  
19 each of them in the 12 months prior to the act or omission  
20 causing the liability.

21 (Source: P.A. 86-239.)

22 (215 ILCS 155/17) (from Ch. 73, par. 1417)

23 Sec. 17. Independent escrowees.

24 (a) ~~An Every~~ independent escrowee shall be subject to the  
25 same certification and deposit requirements to which title  
26 insurance companies are subject under Section 4 of this Act.

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

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

33 (d) Every certificate of authority shall remain in effect



1 one year unless revoked or suspended by the Director or  
2 voluntarily surrendered by the holder.

3 (e) An independent escrowee may engage in the escrow,  
4 settlement, or closing business, or any combination of such  
5 business, and operate as an escrow, settlement, or closing  
6 agent, provided that:

7 (1) Funds deposited in connection with any escrow,  
8 settlement, or closing shall be deposited in a separate  
9 fiduciary trust account or accounts in a bank or other  
10 financial institution insured by an agency of the federal  
11 government unless the instructions provide otherwise. Such  
12 funds shall be the property of the person or persons  
13 entitled thereto under the provisions of the escrow,  
14 settlement, or closing and shall be segregated by escrow,  
15 settlement or closing in the records of the independent  
16 escrowee. Such funds shall not be subject to any debts of  
17 the escrowee and shall be used only in accordance with the  
18 terms of the individual escrow, settlement or closing under  
19 which the funds were accepted.

20 (2) Interest received on funds deposited with the  
21 independent escrowee in connection with any escrow,  
22 settlement or closing shall be paid to the depositing party  
23 unless the instructions provide otherwise.

24 (3) The independent escrowee shall maintain separate  
25 records of all receipt and disbursement of escrow,  
26 settlement or closing funds.

27 (4) The independent escrowee shall comply with any  
28 rules or regulations promulgated by the Director  
29 pertaining to escrow, settlement or closing transactions.

30 (f) The Director or his authorized representative shall  
31 have the power and authority to visit and examine at any time  
32 any independent escrowee certified under this Act and to verify  
33 and compel compliance with the provisions of this Act.

34 ~~(g) A title insurance company or title insurance agent, not~~

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

15 (Source: P.A. 91-159, eff. 1-1-00.)

16 (215 ILCS 155/18) (from Ch. 73, par. 1418)

17 Sec. 18. No referral payments; kickbacks. (a) Application  
18 of this Section is limited to residential properties of 4 or  
19 fewer units, at least one of which units is occupied or to be  
20 occupied by an owner, legal or beneficial.

21 (b) No title insurance company, independent escrowee, or  
22 title insurance agent may issue a title insurance policy to, or  
23 provide services to an applicant if it knows or has reason to  
24 believe that the applicant was referred to it by any producer  
25 of title business or by any associate of such producer, where  
26 the producer, the associate, or both, have a financial interest  
27 in the title insurance company, independent escrowee, or title  
28 insurance agent to which business is referred unless the  
29 producer has disclosed to any party paying for the products or  
30 services, or his representative, the financial interest of the  
31 producer of title business or associate referring the title  
32 business and a disclosure of an estimate of those charges to be  
33 paid as described in Section 19. Such disclosure must be made

1 in writing on forms prescribed by the Director prior to the  
2 time that the commitment for title insurance is issued. The  
3 title insurance company, independent escrowee, or title  
4 insurance agent shall maintain the disclosure forms for a  
5 period of 3 years.

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

15 (1) A ~~Each~~ title insurance company and independent  
16 escrowee shall file the report required under this  
17 subsection with its application for a certificate of  
18 authority and at any time there is a change in the  
19 information provided in the last report.

20 (2) A ~~Each~~ title insurance agent shall file the report  
21 required under this subsection with its title insurance  
22 company for inclusion with its application for  
23 registration and at any time there is a change in the  
24 information provided in its last report.

25 (3) A ~~Each~~ title insurance company, independent  
26 escrowee, or title insurance agent doing business on the  
27 effective date of this Act shall file the report required  
28 under this subsection within 90 days after such effective  
29 date.

30 (Source: P.A. 86-239.)

31 (215 ILCS 155/21) (from Ch. 73, par. 1421)

32 Sec. 21. Regulatory action.

33 (a) The Director may refuse to grant, and may suspend or

1 revoke, any certificate of authority, registration or license  
2 issued pursuant to this Act if he determines that the holder of  
3 or applicant for such certificate, registration or license:

4 (1) has intentionally made a material misstatement or  
5 fraudulent misrepresentation in relation to a matter  
6 covered by this Act;

7 (2) has misappropriated or tortiously converted to its  
8 own use, or illegally withheld, monies held in a fiduciary  
9 capacity;

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

13 (4) has materially misrepresented the terms or  
14 conditions of contracts or agreements to which it is a  
15 party;

16 (5) has paid any commissions, discounts or any part of  
17 its premiums, fees or other charges to any person in  
18 violation of any State or federal law or regulations or  
19 opinion letters issued under the federal Real Estate  
20 Settlement Procedures Act of 1974; or

21 (6) has failed to comply with the deposit and reserve  
22 requirements of this Act or any other requirements of this  
23 Act.

24 (b) In every case where a registration or certificate is  
25 suspended or revoked, or an application for a registration or  
26 certificate or renewal thereof is refused, the Director shall  
27 serve notice of his action, including a statement of the  
28 reasons for his action, as provided by this Act. When a notice  
29 of suspension or revocation of a certificate of authority is  
30 given to a title insurance company, the Director shall also  
31 notify all the registered agents of that title insurance  
32 company of the Director's action. ~~either personally or by~~  
33 ~~registered or certified mail. Service by mail shall be deemed~~  
34 ~~completed if such notice is deposited in the post office,~~

1 ~~postage paid, addressed to the last known address specified in~~  
2 ~~the application for the certificate or registration of such~~  
3 ~~holder or registrant.~~

4 (c) In the case of a refusal to issue or renew a  
5 certificate or accept a registration, the applicant or  
6 registrant may request in writing, within 30 days after the  
7 date of service, a hearing. In the case of a refusal to renew,  
8 the expiring registration or certificate shall be deemed to  
9 continue in force until 30 days after the service of the notice  
10 of refusal to renew, or if a hearing is requested during that  
11 period, until a final order is entered pursuant to such  
12 hearing.

13 (d) The suspension or revocation of a registration or  
14 certificate shall take effect upon service of notice thereof.  
15 The holder of any such suspended registration or certificate  
16 may request in writing, within 30 days of such service, a  
17 hearing.

18 (e) In cases of suspension or revocation of registration  
19 pursuant to subsection (a), the Director may, in the public  
20 interest, issue an order of suspension or revocation which  
21 shall take effect upon service of notification thereof. Such  
22 order shall become final 60 days from the date of service  
23 unless the registrant requests in writing, within such 60 days,  
24 a formal hearing thereon. In the event a hearing is requested,  
25 the order shall remain temporary until a final order is entered  
26 pursuant to such hearing.

27 (f) Hearing shall be held at such time and place as may be  
28 designated by the Director either in the City of Springfield,  
29 the City of Chicago, or in the county in which the principal  
30 business office of the affected registrant or certificate  
31 holder is located.

32 (g) The suspension or revocation of a registration or  
33 certificate or the refusal to issue or renew a registration or  
34 certificate shall not in any way limit or terminate the

1 responsibilities of any registrant or certificate holder  
2 arising under any policy or contract of title insurance to  
3 which it is a party. No new contract or policy of title  
4 insurance may be issued, nor may any existing policy or  
5 contract to title insurance be renewed by any registrant or  
6 certificate holder during any period of suspension or  
7 revocation of a registration or certificate.

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

15 The Director may issue the cease and desist order without  
16 notice and before a hearing.

17 The Director shall have the authority to prescribe rules  
18 for the administration of this Section.

19 If it is determined that the Director had the authority to  
20 issue the cease and desist order, he may issue such orders as  
21 may be reasonably necessary to correct, eliminate or remedy  
22 such conduct.

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

27 The powers vested in the Director by this Section are  
28 additional to any and all other powers and remedies vested in  
29 the Director by law, and nothing in this Section shall be  
30 construed as requiring that the Director shall employ the  
31 powers conferred in this Section instead of or as a condition  
32 precedent to the exercise of any other power or remedy vested  
33 in the Director.

34 (Source: P.A. 89-601, eff. 8-2-96.)

1 (215 ILCS 155/21.1 new)

2 Sec. 21.1. Receiver and involuntary liquidation.

3 (a) The proceedings under this Section shall be the  
4 exclusive remedy and the only proceedings commenced in any  
5 court for the dissolution of, the winding up of the affairs of,  
6 or the appointment of a receiver for a title insurance company.

7 (b) If the Director, with respect to a title insurance  
8 company, finds that (1) its capital is impaired or it is  
9 otherwise in an unsound condition, (2) its business is being  
10 conducted in an unlawful, fraudulent, or unsafe manner, (3) it  
11 is unable to continue operations, or (4) its examination has  
12 been obstructed or impeded, the Director may give notice to the  
13 board of directors of the title insurance company of his or her  
14 findings. If the Director's findings are not corrected to his  
15 or her satisfaction within 60 days after the company receives  
16 the notice, the Director shall take possession and control of  
17 the title insurance company, its assets, and assets held by it  
18 for any person for the purpose of examination, reorganization,  
19 or liquidation through receivership.

20 If, in addition to making a finding as provided in this  
21 subsection (b), the Director is of the opinion and finds that  
22 an emergency that may result in serious losses to any person  
23 exists, the Director may, in his or her discretion, without  
24 having given the notice provided for in this subsection, and  
25 whether or not proceedings under subsection (a) of this Section  
26 have been instituted or are then pending, take possession and  
27 control of the title insurance company and its assets for the  
28 purpose of examination, reorganization, or liquidation through  
29 receivership.

30 (c) The Director may take possession and control of a title  
31 insurance company, its assets, and assets held by it for any  
32 person by posting upon the premises of each office located in  
33 the State of Illinois at which it transacts its business as a

1 title insurance company a notice reciting that the Director is  
2 assuming possession pursuant to this Act and the time when the  
3 possession shall be deemed to commence.

4 (d) Promptly after taking possession and control of a title  
5 insurance company the Director, represented by the Attorney  
6 General, shall file a copy of the notice posted upon the  
7 premises in the Circuit Court of either Cook County or Sangamon  
8 County, which cause shall be entered as a court action upon the  
9 dockets of the court under the name and style of "In the matter  
10 of the possession and control by the Director of the Department  
11 of Financial Institutions of (insert the name of the title  
12 insurance company)". If the Director determines (which  
13 determination may be made at the time of, or at any time  
14 subsequent to, taking possession and control of a title  
15 insurance company) that no practical possibility exists to  
16 reorganize the title insurance company after reasonable  
17 efforts have been made, the Director, represented by the  
18 Attorney General, shall also file a complaint, if it has not  
19 already been done, for the appointment of a receiver or such  
20 other proceeding as is appropriate under the circumstances. The  
21 court where the cause is docketed shall be vested with the  
22 exclusive jurisdiction to hear and determine all issues and  
23 matters pertaining to or connected with the Director's  
24 possession and control of the title insurance company as  
25 provided in this Act and any further issues and matters  
26 pertaining to or connected with the Director's possession and  
27 control as may be submitted to the court for its adjudication.

28 The Director, upon taking possession and control of a title  
29 insurance company, may, and if not previously done, shall  
30 immediately upon filing a complaint for dissolution make an  
31 examination of the affairs of the title insurance company or  
32 appoint a suitable person to make the examination as the  
33 Director's agent. The examination shall be conducted pursuant  
34 to the authority granted under Section 12 of this Act. The



1 person conducting the examination shall have and may exercise  
2 on behalf of the Director all of the powers and authority  
3 granted to the Director under Section 12. A copy of the report  
4 shall be filed in any dissolution proceeding filed by the  
5 Director. The reasonable fees and necessary expenses of the  
6 examining person, as approved by the Director or as recommended  
7 by the Director and approved by the court if a dissolution  
8 proceeding has been filed, shall be borne by the subject title  
9 insurance company and shall have the same priority for payment  
10 as the reasonable and necessary expenses of the Director in  
11 conducting an examination. The person appointed to make the  
12 examination shall make a proper accounting, in the manner and  
13 scope as determined by the Director to be practical and  
14 advisable under the circumstances, on behalf of the title  
15 insurance company and no guardian ad litem need be appointed to  
16 review the accounting.

17 (e) The Director, upon taking possession and control of a  
18 title insurance company and its assets, shall be vested with  
19 the full powers of management and control, including, but not  
20 limited to, the following:

21 (1) the power to continue or to discontinue the  
22 business;

23 (2) the power to stop or to limit the payment of its  
24 obligations;

25 (3) the power to collect and to use its assets and to  
26 give valid receipts and acquittances therefor;

27 (4) the power to transfer title and liquidate any bond  
28 or deposit made under Section 4 of this Act;

29 (5) the power to employ and to pay any necessary  
30 assistants;

31 (6) the power to execute any instrument in the name of  
32 the title insurance company;

33 (7) the power to commence, defend, and conduct in its  
34 name any action or proceeding in which it may be a party;

1           (8) the power, upon the order of the court, to sell and  
2           convey its assets, in whole or in part, and to sell or  
3           compound bad or doubtful debts upon such terms and  
4           conditions as may be fixed in that order;

5           (9) the power, upon the order of the court, to make and  
6           to carry out agreements with other title insurance  
7           companies or financial institutions or with the United  
8           States or any agency of the United States for the payment  
9           or assumption of the title insurance company's  
10           liabilities, in whole or in part, and to transfer assets  
11           and to make guaranties, in whole or in part, in connection  
12           therewith;

13           (10) the power, upon the order of the court, to borrow  
14           money in the name of the title insurance company and to  
15           pledge its assets as security for the loan;

16           (11) the power to terminate his or her possession and  
17           control by restoring the title insurance company to its  
18           board of directors;

19           (12) the power to appoint a receiver which may be the  
20           Director of the Department of Financial Institutions,  
21           another title insurance company, or another suitable  
22           person and to order liquidation of the title insurance  
23           company as provided in this Act; and

24           (13) the power, upon the order of the court and without  
25           the appointment of a receiver, to determine that the title  
26           insurance company has been closed for the purpose of  
27           liquidation without adequate provision being made for  
28           payment of its obligations, and thereupon the title  
29           insurance company shall be deemed to have been closed on  
30           account of inability to meet its obligations to its  
31           insureds or escrow depositors.

32           (f) Upon taking possession, the Director shall make an  
33           examination of the condition of the title insurance company and  
34           an inventory of the assets and, unless the time shall be

1 extended by order of the court or unless the Director shall  
2 have otherwise settled the affairs of the title insurance  
3 company pursuant to the provisions of this Act, within 90 days  
4 after the time of taking possession and control of the title  
5 insurance company, the Director shall either terminate his  
6 possession and control by restoring the title insurance company  
7 to its board of directors or appoint a receiver, which may be  
8 the Director of the Department of Financial Institutions,  
9 another title insurance company, or another suitable person and  
10 order the liquidation of the title insurance company as  
11 provided in this Act. All necessary and reasonable expenses of  
12 the Director's possession and control shall be a priority claim  
13 and shall be borne by the title insurance company and may be  
14 paid by the Director from the title insurance company's own  
15 assets as distinguished from assets held for any other person.

16 (g) If the Director takes possession and control of a title  
17 insurance company and its assets, any period of limitation  
18 fixed by a statute or agreement that would otherwise expire on  
19 a claim or right of action of the title insurance company, on  
20 its own behalf or on behalf of its insureds or escrow  
21 depositors, or upon which an appeal must be taken or a pleading  
22 or other document must be filed by the title insurance company  
23 in any pending action or proceeding shall be tolled until 6  
24 months after the commencement of the possession, and no  
25 judgment, lien, levy, attachment, or other similar legal  
26 process must be enforced upon or satisfied, in whole or in  
27 part, from any asset of the title insurance company or from any  
28 asset of an insured or escrow depositor while it is in the  
29 possession of the Director.

30 (h) If the Director appoints a receiver to take possession  
31 and control of the assets of insureds or escrow depositors for  
32 the purpose of holding those assets as fiduciary for the  
33 benefit of the insureds or escrow depositors pending the  
34 winding up of the affairs of the title insurance company being

1 liquidated and the appointment of a successor escrowee for  
2 those assets, any period of limitation fixed by statute, rule  
3 of court, or agreement that would otherwise expire on a claim  
4 or right of action in favor of or against the insureds or  
5 escrow depositors of those assets or upon which an appeal must  
6 be taken or a pleading or other document must be filed by a  
7 title insurance company on behalf of an insured or escrow  
8 depositor in any pending action or proceeding shall be tolled  
9 for a period of 6 months after the appointment of a receiver,  
10 and no judgment, lien, levy, attachment, or other similar legal  
11 process shall be enforced upon or satisfied, in whole or in  
12 part, from any asset of the insured or escrow depositor while  
13 it is in the possession of the receiver.

14 (i) If the Director determines at any time that no  
15 reasonable possibility exists for the title insurance company  
16 to be operated by its board of directors in accordance with the  
17 provisions of this Act after reasonable efforts have been made  
18 and that it should be liquidated through receivership, he or  
19 she shall appoint a receiver. The Director may require of the  
20 receiver such bond and security as the Director deems proper.  
21 The Director, represented by the Attorney General, shall file a  
22 complaint for the dissolution or winding up of the affairs of  
23 the title insurance company in a court of the county in which  
24 the principal office of the title insurance company is located  
25 and shall cause notice to be given in a newspaper of general  
26 circulation once each week for 4 consecutive weeks so that  
27 persons who may have claims against the title insurance company  
28 may present them to the receiver and make legal proof thereof  
29 and notifying those persons and all to whom it may concern of  
30 the filing of a complaint for the dissolution or winding up of  
31 the affairs of the title insurance company and stating the name  
32 and location of the court. All persons who may have claims  
33 against the assets of the title insurance company, as  
34 distinguished from the assets of insureds and escrow depositors

1 held by the title insurance company, and the receiver to whom  
2 those persons have presented their claims may present them to  
3 the clerk of the court, and the allowance or disallowance of  
4 the claims by the court in connection with the proceedings  
5 shall be deemed an adjudication in a court of competent  
6 jurisdiction. Within a reasonable time after completion of  
7 publication, the receiver shall file with the court a correct  
8 list of all creditors of the title insurance company as shown  
9 by its books, who have not presented their claims and the  
10 amount of their respective claims after allowing adjusted  
11 credit, deductions, and set-offs as shown by the books of the  
12 title insurance company. The claims so filed shall be deemed  
13 proven unless objections are filed thereto by a party or  
14 parties interested therein within the time fixed by the court.

15 (j) The receiver for a title insurance company has the  
16 power and authority and is charged with the duties and  
17 responsibilities as follows:

18 (1) To take possession of and, for the purpose of the  
19 receivership, title to the books, records, and assets of  
20 every description of the title insurance company.

21 (2) To proceed to collect all debts, dues, and claims  
22 belonging to the title insurance company.

23 (3) To sell and compound all bad and doubtful debts on  
24 such terms as the court shall direct.

25 (4) To sell the real and personal property of the title  
26 insurance company, as distinguished from the real and  
27 personal property of the insureds or escrow depositors, on  
28 such terms as the court shall direct.

29 (5) To file with the Director a copy of each report  
30 which he or she makes to the court, together with such  
31 other reports and records as the Director may require.

32 (6) To sue and defend in his or her own name and with  
33 respect to the affairs, assets, claims, debts, and choses  
34 in action of the title insurance company.

1           (7) To surrender to the insureds and escrow depositors  
2           of the title insurance company, when requested in writing  
3           directed to the receiver by them, the escrowed funds (on a  
4           pro rata basis), and escrowed documents in the receiver's  
5           possession upon satisfactory proof of ownership and  
6           determination by the receiver of available escrow funds.

7           (8) To redeem or take down collateral hypothecated by  
8           the title insurance company to secure its notes and other  
9           evidence of indebtedness whenever the court deems it to be  
10           in the best interest of the creditors of the title  
11           insurance company and directs the receiver so to do.

12           (k) Whenever the receiver finds it necessary in his or her  
13           opinion to use and employ money of the title insurance company  
14           in order to protect fully and benefit the title insurance  
15           company by the purchase or redemption of property, real or  
16           personal, in which the title insurance company may have any  
17           rights by reason of any bond, mortgage, assignment, or other  
18           claim thereto, the receiver may certify the facts together with  
19           the receiver's opinions as to the value of the property  
20           involved, and the value of the equity the title insurance  
21           company may have in the property to the court, together with a  
22           request for the right and authority to use and employ so much  
23           of the money of the title insurance company as may be necessary  
24           to purchase the property, or to redeem the same from a sale if  
25           there was a sale, and if the request is granted, the receiver  
26           may use so much of the money of the title insurance company as  
27           the court may have authorized to purchase the property at the  
28           sale.

29           The receiver shall deposit daily all moneys collected by  
30           him or her in any State or national bank approved by the court.  
31           The deposits shall be made in the name of the Director, in  
32           trust for the receiver, and be subject to withdrawal upon the  
33           receiver's order or upon the order of those persons the  
34           Director may designate. The moneys may be deposited without

1 interest, unless otherwise agreed. The receiver shall do the  
2 things and take the steps from time to time under the direction  
3 and approval of the court that may reasonably appear to be  
4 necessary to conserve the title insurance company's assets and  
5 secure the best interests of the creditors, insureds, and  
6 escrow depositors of the title insurance company. The receiver  
7 shall record any judgment of dissolution entered in a  
8 dissolution proceeding and thereupon turn over to the Director  
9 a certified copy of the judgment.

10 The receiver may cause all assets of the insureds and  
11 escrow depositors of the title insurance company to be  
12 registered in the name of the receiver or in the name of the  
13 receiver's nominee.

14 For its services in administering the escrows held by the  
15 title insurance company during the period of winding up the  
16 affairs of the title insurance company, the receiver is  
17 entitled to be reimbursed for all costs and expenses incurred  
18 by the receiver and shall also be entitled to receive out of  
19 the assets of the individual escrows being administered by the  
20 receiver during the period of winding up the affairs of the  
21 title insurance company and prior to the appointment of a  
22 successor escrowee the usual and customary fees charged by an  
23 escrowee for escrows or reasonable fees approved by the court.

24 The receiver, during its administration of the escrows of  
25 the title insurance company during the winding up of the  
26 affairs of the title insurance company, shall have all of the  
27 powers that are vested in trustees under the terms and  
28 provisions of the Trusts and Trustees Act.

29 Upon the appointment of a successor escrowee, the receiver  
30 shall deliver to the successor escrowee all of the assets  
31 belonging to each individual escrow to which the successor  
32 escrowee succeeds, and the receiver shall thereupon be relieved  
33 of any further duties or obligations with respect thereto.

34 (1) The receiver shall, upon approval by the court, pay all

1 claims against the assets of the title insurance company  
2 allowed by the court pursuant to subsection (i) of this  
3 Section, as well as claims against the assets of insureds and  
4 escrow depositors of the title insurance company in accordance  
5 with the following priority:

6 (1) All necessary and reasonable expenses of the  
7 Director's possession and control and of its receivership  
8 shall be paid from the assets of the title insurance  
9 company.

10 (2) All usual and customary fees charged for services  
11 in administering escrows shall be paid from the assets of  
12 the individual escrows being administered. If the assets of  
13 the individual escrows being administered are  
14 insufficient, the fees shall be paid from the assets of the  
15 title insurance company.

16 (3) Secured claims, including claims for taxes and  
17 debts due the federal or any state or local government,  
18 that are secured by liens perfected prior to the date of  
19 filing of the complaint for dissolution, shall be paid from  
20 the assets of the title insurance company.

21 (4) Claims by policyholders, beneficiaries, insureds  
22 and escrow depositors of the title insurance company shall  
23 be paid from the assets of the insureds and escrow  
24 depositors. If there are insufficient assets of the  
25 insureds and escrow depositors, claims shall be paid from  
26 the assets of the title insurance company.

27 (5) Any other claims due the federal government shall  
28 be paid from the assets of the title insurance company.

29 (6) Claims for wages or salaries, excluding vacation,  
30 severance and sick leave pay earned by employees for  
31 services rendered within 90 days prior to the date of  
32 filing of the complaint for dissolution, shall be paid from  
33 the assets of the title insurance company.

34 (7) All other claims of general creditors not falling



1       within any priority under this subsection including claims  
2       for taxes and debts due any state or local government which  
3       are not secured claims and claims for attorney's fees  
4       incurred by the title insurance company in contesting the  
5       dissolution shall be paid from the assets of the title  
6       insurance company.

7           (8) Proprietary claims asserted by an owner, member or  
8       stockholder of the title insurance company in receivership  
9       shall be paid from the assets of the title insurance  
10       company.

11       The receiver shall pay all claims of equal priority  
12       according to the schedule set out in this subsection and shall  
13       not pay claims of lower priority until all higher priority  
14       claims are satisfied. If insufficient assets are available to  
15       meet all claims of equal priority, those assets shall be  
16       distributed pro rata among those claims. All unclaimed assets  
17       of the title insurance company shall be deposited with the  
18       receiver to be paid out by him or her when the claims are  
19       submitted and allowed by the court.

20           (m) At the termination of the receiver's administration,  
21       the receiver shall petition the court for the entry of a  
22       judgment of dissolution. After a hearing upon the notice as the  
23       court may prescribe, the court may enter a judgment of  
24       dissolution whereupon the title insurance company's corporate  
25       existence shall be terminated and the receivership concluded.

26           (n) The receiver shall serve at the pleasure of the  
27       Director and upon the death, inability to act, resignation, or  
28       removal by the Director of a receiver, the Director may appoint  
29       a successor, and upon the appointment, all rights and duties of  
30       the predecessor shall at once devolve upon the appointee.

31           (o) Whenever the Director shall have taken possession and  
32       control of a title insurance company or a title insurance agent  
33       and its assets for the purpose of examination, reorganization  
34       or liquidation through receivership, or whenever the Director

1 shall have appointed a receiver for a title insurance company  
2 or title insurance agent and filed a complaint for the  
3 dissolution or winding up of its affairs, and the title  
4 insurance company or title insurance agent denies the grounds  
5 for such actions, it may at any time within 10 days apply to  
6 the Circuit Court of Cook or Sangamon County to enjoin further  
7 proceedings in the premises; and such Court shall cite the  
8 Director to show cause why further proceedings should not be  
9 enjoined, and if the Court shall find that such grounds do not  
10 exist, the Court shall make an order enjoining the Director or  
11 any receiver acting under his direction from all further  
12 proceedings on account of such alleged grounds.

13 (215 ILCS 155/21.2 new)

14 Sec. 21.2. Notice.

15 (a) Notice of any action by the Director under this Act or  
16 regulations or orders promulgated under it shall be made either  
17 personally or by registered or certified mail, return receipt  
18 requested, and by sending a copy of same by telephone facsimile  
19 or electronic mail, if known and operating, and if unknown or  
20 not operating, then by regular mail. Service by mail shall be  
21 deemed completed if such notice is deposited as registered or  
22 certified mail in the post office, postage paid, addressed to  
23 the last known address specified in the application for the  
24 certificate of authority to do business or certificate of  
25 registration of such holder or registrant.

26 (b) The Director shall notify all registered agents of a  
27 title insurance company when that title insurance company's  
28 certificate of authority is suspended or revoked.

29 (215 ILCS 155/21.3 new)

30 Sec. 21.3. Record retention. Evidence of the examination of  
31 title, if any, and determination of insurability for business  
32 written by a title insurance company or its title insurance

1 agent and records relating to escrow, closings, and security  
2 deposits shall be preserved and retained by the title insurance  
3 company or its title insurance agent for as long as appropriate  
4 to the circumstances but, in no event, less than 7 years after  
5 the title insurance policy has been issued or the escrow,  
6 closing, or security deposit account has been closed or as  
7 provided by applicable federal law. This Section shall not  
8 apply to a title insurance company acting as a coinsurer if one  
9 of the other coinsurers has complied with this Section.

10 (215 ILCS 155/23) (from Ch. 73, par. 1423)

11 Sec. 23. Violations; penalties.

12 (a) Any violation of any of the provisions of this Act  
13 shall constitute a business offense and shall subject the party  
14 violating the same to a penalty of \$1000 for each offense.

15 (b) Nothing contained in this Section shall affect the  
16 right of the Director to revoke or suspend a title insurance  
17 company's or independent escrowee's certificate of authority  
18 or a title insurance agent's registration under any other  
19 Section of this Act.

20 (Source: P.A. 86-239.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."