



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2947

Introduced 2/4/2014, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 155/16

from Ch. 73, par. 1416

Amends the Title Insurance Act. With regard to the requirement that every application for registration of a title insurance agent shall include a signed and notarized affidavit of the applicant, affirming that the applicant and every owner, officer, director, principal, member, or manager of the applicant has never been convicted or pled guilty to any felony or misdemeanor involving a crime of theft or dishonesty, provides that, alternatively, the affidavit may accurately disclose any such felony or misdemeanor involving a crime of theft or dishonesty. Provides that no person who has had a conviction or pled guilty to any felony or misdemeanor involving theft or dishonesty may be registered by a title insurance company without a written notification (rather than a separate written notification) to the Secretary disclosing the conviction or plea.

LRB098 19574 RPM 54764 b

1 AN ACT concerning regulation.

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

4 Section 5. The Title Insurance Act is amended by changing
5 Section 16 as follows:

6 (215 ILCS 155/16) (from Ch. 73, par. 1416)

7 Sec. 16. Title insurance agents.

8 (a) No person, firm, partnership, association, corporation
9 or other legal entity shall act as or hold itself out to be a
10 title insurance agent unless duly registered by a title
11 insurance company with the Secretary.

12 (b) Each application for registration shall be made on a
13 form specified by the Secretary and prepared in duplicate by
14 each title insurance company which the agent represents. The
15 title insurance company shall retain the copy of the
16 application and forward the original to the Secretary with the
17 appropriate fee.

18 (c) Every applicant for registration, except a firm,
19 partnership, association, limited liability company, or
20 corporation, must be 18 years or more of age. Included in every
21 application for registration of a title insurance agent,
22 including a firm, partnership, association, limited liability
23 company, or corporation, shall be an affidavit of the applicant

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

15 (d) Registration shall be made annually by a filing with
16 the Secretary; supplemental registrations for new title
17 insurance agents to be added between annual filings shall be
18 made from time to time in the manner provided by the Secretary;
19 registrations shall remain in effect unless revoked or
20 suspended by the Secretary or voluntarily withdrawn by the
21 registrant or the title insurance company.

22 (e) Funds deposited in connection with any escrows,
23 settlements, or closings shall be deposited in a separate
24 fiduciary trust account or accounts in a bank or other
25 financial institution insured by an agency of the federal
26 government unless the instructions provide otherwise. The

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

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

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

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

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

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

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

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

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

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

1 Settlement Procedures Act and Section 24 of this Act.

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