

1 AN ACT concerning regulation.

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

4 Section 5. The Title Insurance Act is amended by changing
5 Sections 14 and 16 as follows:

6 (215 ILCS 155/14) (from Ch. 73, par. 1414)

7 Sec. 14. Fees.

8 (a) Every title insurance company and every independent
9 escrowee subject to this Act shall pay the following fees:

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

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

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

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

18 (5) for filing the annual statement, \$50.

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

1 (Source: P.A. 93-32, eff. 7-1-03; 94-893, eff. 6-20-06.)

2 (215 ILCS 155/16) (from Ch. 73, par. 1416)

3 Sec. 16. Title insurance agents.

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

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

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

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

9 (d) Registration shall be made annually by a filing with
10 the Secretary; supplemental registrations for new title
11 insurance agents to be added between annual filings shall be
12 made from time to time in the manner provided by the Secretary;
13 registrations shall remain in effect unless revoked or
14 suspended by the Secretary or voluntarily withdrawn by the
15 registrant or the title insurance company.

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

1 settlement, or closing under which the funds were accepted.

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

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

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

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

1 title insurance company or (2) by a closing protection letter
2 in compliance with the requirements set forth in Section 16.1
3 of this Act, issued by the title insurance company to the
4 seller, buyer, borrower, and lender. A closing protection
5 letter shall not be issued by a title insurance agent. The
6 provisions of this subsection (f) shall not apply to the
7 authority of a title insurance agent to act as an escrow agent
8 under subsection (g) of Section 17 of this Act.

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

19 (h) A title insurance company shall be liable for the acts
20 or omissions of its title insurance agent as an escrow agent if
21 the title insurance company has authorized the title insurance
22 agent under subsections (f) and (g) of this Section 16 and only
23 to the extent of the liability undertaken by the title
24 insurance company in the agency agreement or closing protection
25 letter. The liability, if any, of the title insurance agent to
26 the title insurance company for acts and omissions of the title

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

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

22 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15.)