



Sen. Michael Connelly

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09900SB2688sam001

LRB099 16929 EGJ 47461 a

1 AMENDMENT TO SENATE BILL 2688

2 AMENDMENT NO. _____. Amend Senate Bill 2688 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Title Insurance Act is amended by changing
5 Sections 12 and 21 as follows:

6 (215 ILCS 155/12) (from Ch. 73, par. 1412)

7 Sec. 12. Examinations; compliance.

8 (a) The Secretary or his authorized representative shall
9 have the power and authority, and it shall be his duty, to
10 cause to be visited and examined annually any title insurance
11 company doing business under this Act, and to verify and compel
12 compliance with the provisions of law governing it.

13 (b) The Secretary or his authorized agent shall have power
14 and authority, and it shall be his duty, to cause to be visited
15 and examined annually any registered agent doing business under
16 this Act and to verify and compel compliance with the

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

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

16 (215 ILCS 155/21) (from Ch. 73, par. 1421)

17 Sec. 21. Regulatory action.

18 (a) The Secretary may refuse to grant, and may suspend or
19 revoke, any certificate of authority, registration, or license
20 issued pursuant to this Act or may impose a fine for a
21 violation of this Act if he determines that the holder of or
22 applicant for such certificate, registration or license:

23 (1) has intentionally made a material misstatement or
24 fraudulent misrepresentation in relation to a matter
25 covered by this Act;

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

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

7 (4) has materially misrepresented the terms or
8 conditions of contracts or agreements to which it is a
9 party;

10 (5) has paid any commissions, discounts or any part of
11 its premiums, fees or other charges to any person, or has
12 accepted a title order with knowledge that the order was
13 placed by a settlement service provider, in violation of
14 any State or federal law or regulations or opinion letters
15 issued under the federal Real Estate Settlement Procedures
16 Act of 1974;

17 (6) has failed to comply with the deposit and reserve
18 requirements of this Act or any other requirements of this
19 Act;

20 (7) has committed fraud or misrepresentation in
21 applying for or procuring any certificate of authority,
22 registration, or license issued pursuant to this Act;

23 (8) has a conviction or plea of guilty or plea of nolo
24 contendere in this State or any other jurisdiction to (i)
25 any felony or (ii) a misdemeanor, an essential element of
26 which is dishonesty or fraud or larceny, embezzlement, or

1 obtaining money, property, or credit by false pretenses or
2 by means of a confidence game;

3 (9) has been disciplined by another state, the District
4 of Columbia, a territory, foreign nation, a governmental
5 agency, or any entity authorized to impose discipline if at
6 least one of the grounds for that discipline is the same as
7 or equivalent to one of the grounds for which a title
8 insurance company, title insurance agent, or independent
9 escrowee may be disciplined under this Act or if at least
10 one of the grounds for that discipline involves dishonesty;
11 a certified copy of the record of the action by the other
12 state or jurisdiction shall be prima facie evidence
13 thereof;

14 (10) has advertising that is inaccurate, misleading,
15 or contrary to the provisions of this Act;

16 (11) has knowingly and willfully made any substantial
17 misrepresentation or untruthful advertising;

18 (12) has made any false promises of a character likely
19 to influence, persuade, or induce;

20 (13) has knowingly failed to account for or remit any
21 money or documents coming into the possession of a title
22 insurance company, title insurance agent, or independent
23 escrowee that belong to others;

24 (14) has engaged in dishonorable, unethical, or
25 unprofessional conduct of a character likely to deceive,
26 defraud, or harm the public;

1 (15) has violated the terms of a disciplinary order
2 issued by the Department;

3 (16) has disregarded or violated any provision of this
4 Act or the published rules adopted by the Department to
5 enforce this Act or has aided or abetted any individual,
6 partnership, registered limited liability partnership,
7 limited liability company, or corporation in disregarding
8 any provision of this Act or the published rules; ~~or~~

9 (17) has acted as a title insurance company, title
10 insurance agent, or independent escrowee without a
11 certificate of authority, registration, or license after
12 the title insurance company, title insurance agent, or
13 independent escrowee's certificate of authority,
14 registration, or license was inoperative;~~or~~

15 (18) has, as a title insurance agent, failed to pay to
16 the title insurance company a portion of the title
17 insurance premium that is reasonably related to exposure to
18 loss; or

19 (19) has, as a title insurance company, failed to
20 obtain a portion of the title insurance premium from the
21 title insurance agent that is reasonably related to
22 exposure to loss.

23 (b) In every case where a registration or certificate is
24 suspended or revoked, or an application for a registration or
25 certificate or renewal thereof is refused, the Secretary shall
26 serve notice of his action, including a statement of the

1 reasons for his action, as provided by this Act. When a notice
2 of suspension or revocation of a certificate of authority is
3 given to a title insurance company, the Secretary shall also
4 notify all the registered agents of that title insurance
5 company of the Secretary's action.

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

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

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

1 the order shall remain temporary until a final order is entered
2 pursuant to such hearing.

3 (f) Hearing shall be held at such time and place as may be
4 designated by the Secretary either in the City of Springfield,
5 the City of Chicago, or in the county in which the principal
6 business office of the affected registrant or certificate
7 holder is located.

8 (g) The suspension or revocation of a registration or
9 certificate or the refusal to issue or renew a registration or
10 certificate shall not in any way limit or terminate the
11 responsibilities of any registrant or certificate holder
12 arising under any policy or contract of title insurance to
13 which it is a party. No new contract or policy of title
14 insurance may be issued, nor may any existing policy or
15 contract to title insurance be renewed by any registrant or
16 certificate holder during any period of suspension or
17 revocation of a registration or certificate.

18 (h) The Secretary may issue a cease and desist order to a
19 title insurance company, agent, or other entity doing business
20 without the required license or registration, when in the
21 opinion of the Secretary, the company, agent, or other entity
22 is violating or is about to violate any provision of this Act
23 or any law or of any rule or condition imposed in writing by
24 the Department.

25 The Secretary may issue the cease and desist order without
26 notice and before a hearing.

1 The Secretary shall have the authority to prescribe rules
2 for the administration of this Section.

3 If it is determined that the Secretary had the authority to
4 issue the cease and desist order, he may issue such orders as
5 may be reasonably necessary to correct, eliminate or remedy
6 such conduct.

7 Any person or company subject to an order pursuant to this
8 Section is entitled to judicial review of the order in
9 accordance with the provisions of the Administrative Review
10 Law.

11 The powers vested in the Secretary by this Section are
12 additional to any and all other powers and remedies vested in
13 the Secretary by law, and nothing in this Section shall be
14 construed as requiring that the Secretary shall employ the
15 powers conferred in this Section instead of or as a condition
16 precedent to the exercise of any other power or remedy vested
17 in the Secretary.

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