

AN ACT concerning insurance.

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

Section 5. The Title Insurance Act is amended by changing Sections 3 and 26 as follows:

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

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

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

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

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

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

(ii) guaranteeing, warranting, or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units and

proprietary leases, and for all liens or charges affecting the same;

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

(iv) executing title insurance policies;

(v) effecting contracts of reinsurance;

(vi) abstracting, searching, or examining titles;

or

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

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

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

(E) Doing or proposing to do any business substantially equivalent to any of the activities listed in this subsection, provided that the preparation of an attorney's opinion of title pursuant to paragraph (1)(C) is not intended to be within the definition of "title insurance business" or "business of title insurance".

(1.5) "Title insurance" means insuring, guaranteeing, warranting, or indemnifying owners of real or personal property

or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in, or the unmarketability of the title to the property; the invalidity or unenforceability of any liens or encumbrances thereon; or doing any business in substance equivalent to any of the foregoing. "Warranting" for purpose of this provision shall not include any warranty contained in instruments of encumbrance or conveyance. Title insurance is a single line form of insurance, also known as monoline. An attorney's opinion of title pursuant to paragraph (1)(C) is not intended to be within the definition of "title insurance".

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

(3) "Title insurance agent" means a person, firm, partnership, association, corporation or other legal entity registered by a title insurance company and authorized by such company to determine insurability of title in accordance with generally acceptable underwriting rules and standards in reliance on either the public records or a search package prepared from a title plant, or both, and authorized by such title insurance company in addition to do any of the following:

act as an escrow agent pursuant to subsections (f), (g), and (h) of Section 16 of this Act, solicit title insurance, collect premiums, or issue title insurance commitments, policies, and endorsements of the title insurance company; provided, however, the term "title insurance agent" shall not include officers and salaried employees of any title insurance company.

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

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

(6) "Financial interest" is any ownership interest, legal

or beneficial, except ownership of publicly traded stock.

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

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

(9) "Independent Escrowee" means any firm, person, partnership, association, corporation or other legal entity, other than a title insurance company or a title insurance agent, which receives deposits, in trust, of funds or documents, or both, for the purpose of effecting the sale, transfer, encumbrance or lease of real property to be held by such escrowee until title to the real property that is the subject of the escrow is in a prescribed condition. Federal and State chartered banks, savings and loan associations, credit unions, mortgage bankers, banks or trust companies authorized to do business under the Illinois Corporate Fiduciary Act,

licensees under the Consumer Installment Loan Act, real estate brokers licensed pursuant to the Real Estate License Act of 2000, as such Acts are now or hereafter amended, and licensed attorneys when engaged in the attorney-client relationship are exempt from the escrow provisions of this Act. "Independent Escrowee" does not include employees or independent contractors of a title insurance company or title insurance agent authorized by a title insurance company to perform closing, escrow, or settlement services.

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

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

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

(13) "Insured closing letter" or "closing protection letter" means an indemnification or undertaking to a party to a

real property transaction, from a principal such as a title insurance company, setting forth in writing the extent of the principal's responsibility for intentional misconduct or errors in closing the real property transaction on the part of a settlement agent, such as a title insurance agent or other settlement service provider, and includes protection afforded pursuant to subsections (f), (g), and (h) of Section 16 and Section 16.1 of this Act even if such protection is afforded by contract.

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

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

(Source: P.A. 95-570, eff. 8-31-07; 96-1454, eff. 1-1-11.)

(215 ILCS 155/26)

Sec. 26. Settlement funds.

(a) A title insurance company, title insurance agent, or independent escrowee shall not make disbursements in connection with any escrows, settlements, or closings out of a fiduciary trust account or accounts unless the funds in the aggregate amount of \$50,000 or greater received from any single party to the transaction are good funds as defined in paragraphs (2), (6), or (7) of subsection (c) of this Section; or are collected funds as defined in subsection (d) of this Section.

For the purposes of this subsection (a), where funds in the aggregate amount of \$50,000 or greater are received from any purchaser of residential real property, as defined in paragraph (14) of Section 3 of this Act, the aggregate amount may consist of good funds of less than \$50,000 per paragraph, as defined in paragraphs (3) and (5) of subsection (c) of this Section and of up to \$5,000 in good funds, as defined in paragraph (4) of subsection (c) of this Section.

(a-5) In addition to the good funds disbursement authorization set forth in subsection (a) of this Section, a title insurance company, title insurance agent, or independent escrowee is authorized to make disbursements in connection with any escrows, settlements, or closings out of a fiduciary trust account or accounts where the funds in the aggregate amount of \$50,000 or greater are received from any single party to the



transaction if:

(1) the funds are transferred by a cashier's check, teller's check, or certified check, as defined in the Uniform Commercial Code, that is drawn on or issued by a financial institution, as defined in this Act;

(2) the title insurance company, title insurance agent, or independent escrowee and the financial institution, as defined in this Act, are known to each other and agree to the use of cashier's checks, teller's checks, or certified checks as good funds under item (3) of subsection (c) of this Section; and

(3) the cashier's check, teller's check, or certified check is delivered to the title insurance company, title insurance agent, or independent escrowee in sufficient time for the check to be deposited into the title insurance company's, title insurance agent's, or independent escrowee's fiduciary trust account prior to disbursement from the fiduciary trust account of the title insurance company, title insurance agent, or independent escrowee.

The provisions of this subsection (a-5) are inoperative on and after January 1, 2015.

(b) A title insurance company or title insurance agent shall not make disbursements in connection with any escrows, settlements, or closings out of a fiduciary trust account or accounts unless the funds in the amount of less than \$50,000 received from any single party to the transaction are collected

funds or good funds as defined in subsection (c) of this Section.

(c) "Good funds" means funds in one of the following forms:

(1) lawful money of the United States;

(2) wired funds unconditionally held by and credited to the fiduciary trust account of the title insurance company, the title insurance agent, or independent escrowee;

(3) cashier's checks, certified checks, bank money orders, official bank checks, or teller's checks drawn on or issued by a financial institution ~~chartered under the laws of any state or the United States~~ and unconditionally held by the title insurance company, title insurance agent, or independent escrowee;

(4) a personal check or checks in an aggregate amount not exceeding \$5,000 per closing, provided that the title insurance company, title insurance agent, or independent escrowee has reasonable grounds to believe that sufficient funds are available for withdrawal in the account upon which the check is drawn at the time of disbursement;

(5) a check drawn on the trust account of any lawyer or real estate broker licensed under the laws of any state, provided that the title insurance company, title insurance agent, or independent escrowee has reasonable grounds to believe that sufficient funds are available for withdrawal in the account upon which the check is drawn at the time of disbursement;

(6) a check issued by this State, the United States, or a political subdivision of this State or the United States; or

(7) a check drawn on the fiduciary trust account of a title insurance company or title insurance agent, provided that the title insurance company, title insurance agent, or independent escrowee has reasonable grounds to believe that sufficient funds are available for withdrawal in the account upon which the check is drawn at the time of disbursement.

(d) "Collected funds" means funds deposited, finally settled, and credited to the title insurance company, title insurance agent, or independent escrowee's fiduciary trust account.

(e) A purchaser, a seller, or a lender is each considered a single party to the transaction for the purposes of this Section, regardless of the number of people or entities making up the purchaser, seller, or lender.

(Source: P.A. 96-645, eff. 1-1-10; 96-1457, eff. 1-1-11.)

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