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1 AMENDMENT TO HOUSE BILL 3464

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3464 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, 7, 8, 9, 10, 11, 12, 13, 14, 14.1, 15,  
6 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 and by adding  
7 Sections 4.1, 21.1, 21.2, and 21.3 as follows:

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

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

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

18 (215 ILCS 155/3) (from Ch. 73, par. 1403)

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

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

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

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

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

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

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

17 (iv) executing title insurance policies;

18 (v) effecting contracts of reinsurance;

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

20 or

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

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

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

31 (E) Doing or proposing to do any business substantially  
32 equivalent to any of the activities listed in this  
33 subsection, provided that the preparation of an attorney's  
34 opinion of title pursuant to paragraph (1)(C) is not

1 intended to be within the definition of "title insurance  
2 business" or "business of title insurance".

3 (1.5) "Title insurance" means insuring, guaranteeing,  
4 warranting, or indemnifying owners of real or personal property  
5 or the holders of liens or encumbrances thereon or others  
6 interested therein against loss or damage suffered by reason of  
7 liens, encumbrances upon, defects in, or the unmarketability of  
8 the title to the property; the invalidity or unenforceability  
9 of any liens or encumbrances thereon; or doing any business in  
10 substance equivalent to any of the foregoing. "Warranting" for  
11 purpose of this provision shall not include any warranty  
12 contained in instruments of encumbrance or conveyance. Title  
13 insurance is a single line form of insurance, also known as  
14 monoline. An attorney's opinion of title pursuant to paragraph  
15 (1)(C) is not intended to be within the definition of "title  
16 insurance".

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

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

1 behalf, provided, however, the term "title insurance agent"  
2 shall not include officers and salaried employees of any title  
3 insurance company.

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

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

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

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

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

1 title to the real property that is the subject of the escrow is  
2 in a prescribed condition. An escrow agent conducting closings  
3 shall be subject to the provisions of paragraphs (1) through  
4 (4) of subsection (e) of Section 16 of this Act.

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

26 (10) "Single risk" means the insured amount of any title  
27 insurance policy, except that where 2 or more title insurance  
28 policies are issued simultaneously covering different estates  
29 in the same real property, "single risk" means the sum of the  
30 insured amounts of all such title insurance policies. Any title  
31 insurance policy insuring a mortgage interest, a claim payment  
32 under which reduces the insured amount of a fee or leasehold  
33 title insurance policy, shall be excluded in computing the  
34 amount of a single risk to the extent that the insured amount

1 of the mortgage title insurance policy does not exceed the  
2 insured amount of the fee or leasehold title insurance policy.

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

5 (12) "Secretary" "~~Director~~" means the Secretary ~~Director~~  
6 of Financial and Professional Regulation Institutions.

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

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

17 (215 ILCS 155/4) (from Ch. 73, par. 1404)

18 Sec. 4. Deposits.

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

1 cash, bonds, and securities so deposited may be exchanged for  
2 other such securities. No such cash, bond, or security shall be  
3 sold or transferred by the Secretary ~~Director~~ except on order  
4 of the circuit court or as provided in subsection (d). As long  
5 as the company depositing such securities remains solvent, the  
6 company shall be permitted to receive from the Secretary  
7 ~~Director~~ the interest on such deposit.

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

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

34 (d) If, at any time, a title insurance company causes ~~shall~~

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

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

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

28 (215 ILCS 155/4.1 new)

29 Sec. 4.1. Minimum capital and surplus. Before doing  
30 business in the State of Illinois, a title insurance company  
31 must satisfy the Secretary that it has a minimum capital and  
32 surplus of \$2,000,000. The Secretary may provide the forms and  
33 standards for this purpose by rule.

1 (215 ILCS 155/5) (from Ch. 73, par. 1405)

2 Sec. 5. Certificate of authority required. It is unlawful  
3 ~~shall not be lawful~~ for any company to engage or to continue in  
4 the business of title insurance ~~guaranteeing or insuring titles~~  
5 ~~to real estate,~~ without first procuring from the Secretary  
6 ~~Director~~ a certificate of authority stating that the ~~such a~~  
7 company has complied with the requirements of Section 4 of this  
8 Act. An insurer that transacts any class of insurance other  
9 than title insurance anywhere in the United States is not  
10 eligible for the issuance of a certificate of authority to  
11 transact title insurance in this State nor for a renewal of a  
12 certificate of authority. ~~If any company shall fail to maintain~~  
13 ~~a deposit as required by this Act, the Director may revoke the~~  
14 ~~certificate of authority granted on behalf of such company. The~~  
15 ~~Director shall mail a copy of that revocation to the company~~  
16 ~~and during the time of such revocation the company shall not~~  
17 ~~conduct such business. A revocation shall not be set aside~~  
18 ~~until a good and sufficient deposit shall have been made with~~  
19 ~~the Department, fulfilling all the requirements of this Act.~~

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

21 (215 ILCS 155/6) (from Ch. 73, par. 1406)

22 Sec. 6. Reinsurance.

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

29 (b) A title insurance company licensed to do business in  
30 this State shall retain at least \$100,000 of primary liability  
31 for policies it issues, unless a lesser sum is authorized by  
32 the Secretary. A lesser sum may be retained at the request of

1 an insured for a particular policy. This subsection (b) applies  
2 only to policies issued on or after the effective date of this  
3 amendatory Act of the 94th General Assembly.

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

5 (215 ILCS 155/7) (from Ch. 73, par. 1407)

6 Sec. 7. Investments.

7 (a) Subject to the specific provisions of this Section, the  
8 Secretary ~~Director~~ may, after a notice and hearing, order a  
9 domestic title insurance company to limit or withdraw from  
10 certain investments, or discontinue certain investment  
11 practices, to the extent the Secretary ~~Director~~ finds that such  
12 investments or investment practices endanger the solvency of  
13 the company. The Secretary ~~Director~~ may consider the general  
14 investment provisions of the Illinois Insurance Code, as now or  
15 hereafter amended, in exercising the authority granted under  
16 this subsection (a).

17 (b) A domestic title insurance company may invest in title  
18 plants. For determination of the financial condition of such  
19 title insurance company, a title plant shall be treated as an  
20 asset valued at actual cost except that the combined value of  
21 all title plants owned shall be limited for asset valuation  
22 purposes to 50% of the surplus as regards policyholders as  
23 shown on the most recent annual statement of the title  
24 insurance company.

25 (c) Any investment of a domestic title insurance company  
26 acquired before the effective date of this Act and which, under  
27 this Section, would be considered ineligible as an investment  
28 on that date shall be disposed of within 2 years of the  
29 effective date of this Act. The Secretary ~~Director~~, upon  
30 application and proof that forced sale of any such investment  
31 would be contrary to the best interests of the title insurer or  
32 its policyholders, may extend the period for disposal of the  
33 investment for a reasonable time.

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

2 (215 ILCS 155/8) (from Ch. 73, par. 1408)

3 Sec. 8. Retained liability.

4 (a) The net retained liability of a title insurance company  
5 for a single risk on property located in this State, whether  
6 assumed directly or as reinsurance, may not exceed 50% of the  
7 total surplus to policyholders as shown in the most recent  
8 annual statement of the title insurance company on file with  
9 the Department.

10 (b) The Secretary ~~Director~~ may waive the limitation of this  
11 Section for a particular risk upon application of the title  
12 insurance company and for good cause shown.

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

14 (215 ILCS 155/9) (from Ch. 73, par. 1409)

15 Sec. 9. Impairment of capital; discontinuance of issuance  
16 of new policies; penalty.

17 (a) Whenever the capital of any title insurance company  
18 authorized to do business under this Act is ~~shall be~~ determined  
19 by the circuit court, upon the application of the Secretary  
20 ~~Director~~, to be ~~have become~~ impaired to the extent of 25% of  
21 its capital ~~the same~~, or to have otherwise become unsafe, ~~it~~  
22 ~~shall be the duty of~~ the Secretary ~~shall~~ ~~Director~~ to cancel the  
23 authority of the ~~such~~ company to do business.

24 (b) The Secretary ~~Director~~ shall give notice as provided by  
25 this Act to the ~~such~~ company to discontinue doing business  
26 ~~issuing new policies~~ until its ~~such~~ capital has been made good.  
27 The title insurance company may continue to issue policies and  
28 perform other actions that are required to complete contractual  
29 obligations undertaken prior to the notice.

30 (c) Any officer or management employee who continues to  
31 take orders for title insurance or close transactions ~~issues a~~  
32 ~~new policy of title insurance~~ on behalf of a ~~such~~ company after

1 ~~the such~~ notice to discontinue doing business, and before its  
2 ~~until such~~ capital has been made good, may shall, for each  
3 offense, be fined as provided by this Act ~~forfeit a sum not~~  
4 ~~exceeding \$1,000.~~

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

6 (215 ILCS 155/10) (from Ch. 73, par. 1410)

7 Sec. 10. Reserves. All title insurance companies  
8 authorized to do business under this Act shall establish and  
9 maintain reserves against unpaid losses and loss expenses. Upon  
10 receiving notice from or on behalf of the insured of a title  
11 defect, lien or adverse claim against the title of the insured  
12 that may result in a loss or cause expense to be incurred in  
13 the proper disposition of the claim, the title insurance  
14 company shall determine the amount to be added to the reserve,  
15 which amount shall reflect a careful estimate of the loss or  
16 loss expense likely to result by reason of the claim. Reserves  
17 required under this Section may be revised from time to time  
18 and shall be redetermined at least once each year. A title  
19 insurance company must maintain its reserves for losses  
20 independent of any other form of insurance and therefore may  
21 not issue other lines of insurance.

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

23 (215 ILCS 155/11) (from Ch. 73, par. 1411)

24 Sec. 11. Statutory premium reserve.

25 (a) A domestic title insurance company shall establish and  
26 maintain a statutory premium reserve computed in accordance  
27 with this Section. The reserve shall be reported as a liability  
28 of the title insurance company in its financial statements. The  
29 statutory premium reserve shall be maintained by the title  
30 insurance company for the protection of holders of title  
31 insurance policies. Except as provided in this Section, assets  
32 equal in value to the statutory premium reserve are not subject

1 to distribution among creditors or stockholders of the title  
2 insurance company until all claims of policyholders or claims  
3 under reinsurance contracts have been paid in full, ~~and all~~  
4 ~~liability on the policies or reinsurance contracts has been~~  
5 ~~paid in full~~ and discharged, ~~or~~ lawfully reinsured, or  
6 otherwise assumed by another title insurance company  
7 authorized to do business under this Act.

8 (b) A foreign or alien title insurance company authorized  
9 to do business under this Act shall maintain at least the same  
10 reserves on title insurance policies issued on properties  
11 located in this State as are required of domestic title  
12 insurance companies.

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

14 (1) the amount of the statutory premium reserve on  
15 January 1, 1990; and

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

20 (d) Amounts placed in the statutory premium reserve in any  
21 year in accordance with this Section shall be deducted in  
22 determining the net profit of the title insurance company for  
23 that year.

24 (e) A title insurance company shall release from the  
25 statutory premium reserve a sum equal to 10% of the amount  
26 added to the reserve during a calendar year on July 1 of each  
27 of the 5 years following the year in which the sum was added,  
28 and shall release from the statutory premium reserve a sum  
29 equal to 3 1/3% of the amount added to the reserve during that  
30 year on each succeeding July 1 until the entire amount for that  
31 year has been released. The amount of the statutory premium  
32 reserve or similar premium reserve maintained before January 1,  
33 1990, shall be released in accordance with the law in effect  
34 before January 1, 1990.

1        (f) This reserve is independent of the deposit requirements  
2 of Section 4 of this Act.

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

4 (215 ILCS 155/12) (from Ch. 73, par. 1412)

5 Sec. 12. Examinations; compliance.

6 (a) The Secretary ~~Director~~ or his authorized  
7 representative shall have the power and authority, and it shall  
8 be his duty, to cause to be visited and examined annually any  
9 title insurance company doing business under this Act, and to  
10 verify and compel ~~a~~ compliance with the provisions of law  
11 governing it ~~as he may by law exercise in relation to trust~~  
12 ~~companies.~~

13 (b) The Secretary ~~Director~~ or his authorized agent shall  
14 have power and authority to compel compliance with the  
15 provisions of this Act and shall, only upon the showing of good  
16 cause, require any title insurance company to take all legal  
17 means to obtain the appropriate records of its registered  
18 agents and make them available for examination ~~audit~~ at a time  
19 and place designated by the Secretary ~~Director~~. Expenses  
20 incurred in the course of such examinations ~~audits~~ will be the  
21 responsibility of the title insurance company. In the event  
22 that a present or former registered agent or its successor  
23 refuses or is unable to cooperate with a title insurance  
24 company in furnishing the records requested by the Secretary or  
25 his or her authorized agent, then the Secretary or his or her  
26 authorized agent shall have the power and authority to obtain  
27 those records directly from the registered agent.

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

29 (215 ILCS 155/13) (from Ch. 73, par. 1413)

30 Sec. 13. Annual statement.

31 (a) Each title insurance company shall file with the  
32 Department during the month of March of each year, a statement

1 under oath, of the condition of such company on the  
2 thirty-first day of December next preceding disclosing the  
3 assets, liabilities, earnings and expenses of the company. The  
4 report shall be in such form and shall contain such additional  
5 statements and information as to the affairs, business, and  
6 conditions of the company as the Secretary ~~Director~~ may from  
7 time to time prescribe or require.

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

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

12 (215 ILCS 155/14) (from Ch. 73, par. 1414)

13 Sec. 14. Fees.

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

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

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

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

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

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

25 (b) Each title insurance company shall pay, for all of its  
26 title insurance agents subject to this Act for filing an annual  
27 registration of its agents, an amount equal to \$3 for each  
28 policy issued by all of its agents in the immediately preceding  
29 calendar year.

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

31 (215 ILCS 155/14.1)

32 Sec. 14.1. Financial Institutions Fund. All moneys

1 received by the Department of Financial and Professional  
2 Regulation Institutions under this Act shall be deposited in  
3 the Financial Institutions Fund created under Section 6z-26 of  
4 the State Finance Act.

5 (Source: P.A. 88-13.)

6 (215 ILCS 155/15) (from Ch. 73, par. 1415)

7 Sec. 15. Retaliatory provisions; fees. Whenever the  
8 existing or future laws of any State or country shall require  
9 of title insurance companies incorporated or organized under  
10 the laws of this State, as a condition precedent to their  
11 transacting in such other State or country the business of  
12 title insurance ~~guaranteeing or insuring titles to real estate,~~  
13 compliance with laws, rules, regulations or prohibitions more  
14 onerous or burdensome than those imposed under this Act by this  
15 State on foreign title insurance companies transacting such  
16 business in this State, or shall require any deposit of  
17 securities or other obligations in such State or country for  
18 the protection of policyholders, or otherwise, in excess of the  
19 amounts required of foreign title insurance companies by this  
20 Act, or shall require of Illinois title insurance companies  
21 doing such business in such State or country, the payment of  
22 penalties, fees, charges or taxes greater than the aggregate  
23 for like purposes imposed by the laws of this State upon such  
24 foreign title insurance companies, then such laws, rules,  
25 regulations, and prohibitions of said other State or country  
26 shall apply to title insurance companies incorporated or  
27 organized under the laws of such State or country doing  
28 business in this State, and all such companies, doing business  
29 in this State, shall be required to make deposits with the  
30 Department, and to pay to the Department penalties, fees,  
31 charges, and taxes at least in amounts equal to those required  
32 in the aggregate for like purpose of Illinois companies doing  
33 such business in such State or country.

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

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 ~~Director~~.

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

14 (c) Every applicant for registration, except a firm,  
15 partnership, association or corporation, must be 18 years or  
16 more of age.

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

25 (e) Funds deposited in connection with any escrows,  
26 settlements, or closings shall be deposited in a separate  
27 fiduciary trust account or accounts in a bank or other  
28 financial institution insured by an agency of the federal  
29 government unless the instructions provide otherwise. The  
30 funds shall be the property of the person or persons entitled  
31 thereto under the provisions of the escrow, settlement, or  
32 closing and shall be segregated by escrow, settlement, or  
33 closing in the records of the escrow agent. The funds shall not

1 be subject to any debts of the escrowee and shall be used only  
2 in accordance with the terms of the individual escrow,  
3 settlement, or closing under which the funds were accepted.

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

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

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

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

15 (215 ILCS 155/17) (from Ch. 73, par. 1417)

16 Sec. 17. Independent escrowees.

17 (a) Every independent escrowee shall be subject to the same  
18 certification and deposit requirements to which title  
19 insurance companies are subject under Section 4 of this Act.

20 (b) No person, firm, corporation or other legal entity  
21 shall hold itself out to be an independent escrowee unless it  
22 has been issued a certificate of authority by the Secretary  
23 ~~Director~~.

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

27 (d) Every certificate of authority shall remain in effect  
28 one year unless revoked or suspended by the Secretary ~~Director~~  
29 or voluntarily surrendered by the holder.

30 (e) An independent escrowee may engage in the escrow,  
31 settlement, or closing business, or any combination of such  
32 business, and operate as an escrow, settlement, or closing  
33 agent, provided that:

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

14           (2) Interest received on funds deposited with the  
15 independent escrowee in connection with any escrow,  
16 settlement or closing shall be paid to the depositing party  
17 unless the instructions provide otherwise.

18           (3) The independent escrowee shall maintain separate  
19 records of all receipt and disbursement of escrow,  
20 settlement or closing funds.

21           (4) The independent escrowee shall comply with any  
22 rules or regulations promulgated by the Secretary ~~Director~~  
23 pertaining to escrow, settlement or closing transactions.

24           (f) The Secretary ~~Director~~ or his authorized  
25 representative shall have the power and authority to visit and  
26 examine at any time any independent escrowee certified under  
27 this Act and to verify and compel compliance with the  
28 provisions of this Act.

29           (g) A title insurance company or title insurance agent, not  
30 qualified as an independent escrowee, may act in the capacity  
31 of an escrow agent when it is supplying an abstract of title,  
32 grantor-grantee search, tract search, lien search, tax  
33 assessment search, or other limited purpose search to the  
34 parties to the transaction even if it is not issuing a title

1 insurance commitment or title insurance policy. A title  
2 insurance agent may act as an escrow agent only when  
3 specifically authorized in writing on forms prescribed by the  
4 Secretary ~~Director~~ by a title insurance company that has duly  
5 registered the agent with the Secretary ~~Director~~ and only when  
6 notice of the authorization is provided to and receipt thereof  
7 is acknowledged by the Secretary ~~Director~~. The authority  
8 granted to a title insurance agent may be limited or revoked at  
9 any time by the title insurance company.

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

11 (215 ILCS 155/18) (from Ch. 73, par. 1418)

12 Sec. 18. No referral payments; kickbacks.

13 (a) Application of this Section is limited to residential  
14 properties of 4 or fewer units, at least one of which units is  
15 occupied or to be occupied by an owner, legal or beneficial.

16 (b) No title insurance company, independent escrowee, or  
17 title insurance agent may issue a title insurance policy to, or  
18 provide services to an applicant if it knows or has reason to  
19 believe that the applicant was referred to it by any producer  
20 of title business or by any associate of such producer, where  
21 the producer, the associate, or both, have a financial interest  
22 in the title insurance company, independent escrowee, or title  
23 insurance agent to which business is referred unless the  
24 producer has disclosed to any party paying for the products or  
25 services, or his representative, the financial interest of the  
26 producer of title business or associate referring the title  
27 business and a disclosure of an estimate of those charges to be  
28 paid as described in Section 19. Such disclosure must be made  
29 in writing on forms prescribed by the Secretary ~~Director~~ prior  
30 to the time that the commitment for title insurance is issued.  
31 The title insurance company, independent escrowee, or title  
32 insurance agent shall maintain the disclosure forms for a  
33 period of 3 years.

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

11 (1) Each title insurance company and independent  
12 escrowee shall file the report required under this  
13 subsection with its application for a certificate of  
14 authority and at any time there is a change in the  
15 information provided in the last report.

16 (2) Each title insurance agent shall file the report  
17 required under this subsection with its title insurance  
18 company for inclusion with its application for  
19 registration and at any time there is a change in the  
20 information provided in its last report.

21 (3) Each title insurance company, independent  
22 escrowee, or title insurance agent doing business on the  
23 effective date of this Act shall file the report required  
24 under this subsection within 90 days after such effective  
25 date.

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

27 (215 ILCS 155/19) (from Ch. 73, par. 1419)

28 Sec. 19. Secretary powers; pricing. Nothing contained in  
29 this Act shall be construed as giving any authority to the  
30 Secretary ~~Director~~ to set or otherwise adjust the fees charged  
31 to the parties to the transaction for:

32 (1) issuing a title insurance policy, including any  
33 service charge or administration fee for the issuance of a

1 title insurance policy;

2 (2) abstracting, searching and examining title;

3 (3) preparing or issuing preliminary reports, property  
4 profiles, commitments, binders, or like product;

5 (4) closing fees, escrow fees, settlement fees, and  
6 like charges.

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

8 (215 ILCS 155/20) (from Ch. 73, par. 1420)

9 Sec. 20. Rules and regulations. The Secretary ~~Director~~  
10 shall rely upon federal regulations and opinion letters and may  
11 adopt rules and regulations as needed to implement and  
12 interpret the provisions of this Act.

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

14 (215 ILCS 155/21) (from Ch. 73, par. 1421)

15 Sec. 21. Regulatory action.

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

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

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

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

30 (4) has materially misrepresented the terms or  
31 conditions of contracts or agreements to which it is a  
32 party;

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

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

9 (b) In every case where a registration or certificate is  
10 suspended or revoked, or an application for a registration or  
11 certificate or renewal thereof is refused, the Secretary  
12 ~~Director~~ shall serve notice of his action, including a  
13 statement of the reasons for his action, as provided by this  
14 Act. When a notice of suspension or revocation of a certificate  
15 of authority is given to a title insurance company, the  
16 Secretary shall also notify all the registered agents of that  
17 title insurance company of the Secretary's action. either  
18 ~~personally or by registered or certified mail. Service by mail~~  
19 ~~shall be deemed completed if such notice is deposited in the~~  
20 ~~post office, postage paid, addressed to the last known address~~  
21 ~~specified in the application for the certificate or~~  
22 ~~registration of such holder or registrant.~~

23 (c) In the case of a refusal to issue or renew a  
24 certificate or accept a registration, the applicant or  
25 registrant may request in writing, within 30 days after the  
26 date of service, a hearing. In the case of a refusal to renew,  
27 the expiring registration or certificate shall be deemed to  
28 continue in force until 30 days after the service of the notice  
29 of refusal to renew, or if a hearing is requested during that  
30 period, until a final order is entered pursuant to such  
31 hearing.

32 (d) The suspension or revocation of a registration or  
33 certificate shall take effect upon service of notice thereof.  
34 The holder of any such suspended registration or certificate

1 may request in writing, within 30 days of such service, a  
2 hearing.

3 (e) In cases of suspension or revocation of registration  
4 pursuant to subsection (a), the Secretary ~~Director~~ may, in the  
5 public interest, issue an order of suspension or revocation  
6 which shall take effect upon service of notification thereof.  
7 Such order shall become final 60 days from the date of service  
8 unless the registrant requests in writing, within such 60 days,  
9 a formal hearing thereon. In the event a hearing is requested,  
10 the order shall remain temporary until a final order is entered  
11 pursuant to such hearing.

12 (f) Hearing shall be held at such time and place as may be  
13 designated by the Secretary ~~Director~~ either in the City of  
14 Springfield, the City of Chicago, or in the county in which the  
15 principal business office of the affected registrant or  
16 certificate holder is located.

17 (g) The suspension or revocation of a registration or  
18 certificate or the refusal to issue or renew a registration or  
19 certificate shall not in any way limit or terminate the  
20 responsibilities of any registrant or certificate holder  
21 arising under any policy or contract of title insurance to  
22 which it is a party. No new contract or policy of title  
23 insurance may be issued, nor may any existing policy or  
24 contract to title insurance be renewed by any registrant or  
25 certificate holder during any period of suspension or  
26 revocation of a registration or certificate.

27 (h) The Secretary ~~Director~~ may issue a cease and desist  
28 order to a title insurance company, agent, or other entity  
29 doing business without the required license or registration,  
30 when in the opinion of the Secretary ~~Director~~, the company,  
31 agent, or other entity is violating or is about to violate any  
32 provision of this Act or any law or of any rule or condition  
33 imposed in writing by the Department.

34 The Secretary ~~Director~~ may issue the cease and desist order

1 without notice and before a hearing.

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

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

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

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

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

20 (215 ILCS 155/21.1 new)

21 Sec. 21.1. Receiver and involuntary liquidation.

22 (a) The Secretary's proceedings under this Section shall be  
23 the exclusive remedy and the only proceedings commenced in any  
24 court for the dissolution of, the winding up of the affairs of,  
25 or the appointment of a receiver for a title insurance company.

26 (b) If the Secretary, with respect to a title insurance  
27 company, finds that (i) its capital is impaired or it is  
28 otherwise in an unsound condition, (ii) its business is being  
29 conducted in an unlawful, fraudulent, or unsafe manner, (iii)  
30 it is unable to continue operations, or (iv) its examination  
31 has been obstructed or impeded, the Secretary may give notice  
32 to the board of directors of the title insurance company of his  
33 or her finding or findings. If the Secretary's findings are not

1 corrected to his or her satisfaction within 60 days after the  
2 company receives the notice, the Secretary shall take  
3 possession and control of the title insurance company, its  
4 assets, and assets held by it for any person for the purpose of  
5 examination, reorganization, or liquidation through  
6 receivership.

7 If, in addition to making a finding as provided in this  
8 subsection (b), the Secretary is of the opinion and finds that  
9 an emergency that may result in serious losses to any person  
10 exists, the Secretary may, in his or her discretion, without  
11 having given the notice provided for in this subsection, and  
12 whether or not proceedings under subsection (a) of this Section  
13 have been instituted or are then pending, take possession and  
14 control of the title insurance company and its assets for the  
15 purpose of examination, reorganization, or liquidation through  
16 receivership.

17 (c) The Secretary may take possession and control of a  
18 title insurance company, its assets, and assets held by it for  
19 any person by posting upon the premises of each office located  
20 in the State of Illinois at which it transacts its business as  
21 a title insurance company a notice reciting that the Secretary  
22 is assuming possession pursuant to this Act and the time when  
23 the possession shall be deemed to commence.

24 (d) Promptly after taking possession and control of a title  
25 insurance company the Secretary, represented by the Attorney  
26 General, shall file a copy of the notice posted upon the  
27 premises in the Circuit Court of either Cook County or Sangamon  
28 County, which cause shall be entered as a court action upon the  
29 dockets of the court under the name and style of "In the matter  
30 of the possession and control by the Secretary of the  
31 Department of Financial and Professional Regulation of (insert  
32 the name of the title insurance company)". If the Secretary  
33 determines (which determination may be made at the time of, or  
34 at any time subsequent to, taking possession and control of a

1 title insurance company) that no practical possibility exists  
2 to reorganize the title insurance company after reasonable  
3 efforts have been made, the Secretary, represented by the  
4 Attorney General, shall also file a complaint, if it has not  
5 already been done, for the appointment of a receiver or other  
6 proceeding as is appropriate under the circumstances. The court  
7 where the cause is docketed shall be vested with the exclusive  
8 jurisdiction to hear and determine all issues and matters  
9 pertaining to or connected with the Secretary's possession and  
10 control of the title insurance company as provided in this Act,  
11 and any further issues and matters pertaining to or connected  
12 with the Secretary's possession and control as may be submitted  
13 to the court for its adjudication.

14 The Secretary, upon taking possession and control of a  
15 title insurance company, may, and if not previously done shall,  
16 immediately upon filing a complaint for dissolution make an  
17 examination of the affairs of the title insurance company or  
18 appoint a suitable person to make the examination as the  
19 Secretary's agent. The examination shall be conducted in  
20 accordance with and pursuant to the authority granted under  
21 Section 12 of this Act. The person conducting the examination  
22 shall have and may exercise on behalf of the Secretary all of  
23 the powers and authority granted to the Secretary under Section  
24 12. A copy of the report shall be filed in any dissolution  
25 proceeding filed by the Secretary. The reasonable fees and  
26 necessary expenses of the examining person, as approved by the  
27 Secretary or as recommended by the Secretary and approved by  
28 the court if a dissolution proceeding has been filed, shall be  
29 borne by the subject title insurance company and shall have the  
30 same priority for payment as the reasonable and necessary  
31 expenses of the Secretary in conducting an examination. The  
32 person appointed to make the examination shall make a proper  
33 accounting, in the manner and scope as determined by the  
34 Secretary to be practical and advisable under the

1 circumstances, on behalf of the title insurance company and no  
2 guardian ad litem need be appointed to review the accounting.

3 (e) The Secretary, upon taking possession and control of a  
4 title insurance company and its assets, shall be vested with  
5 the full powers of management and control including, but not  
6 limited to, the following:

7 (1) the power to continue or to discontinue the  
8 business;

9 (2) the power to stop or to limit the payment of its  
10 obligations;

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

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

15 (5) the power to employ and to pay any necessary  
16 assistants;

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

19 (7) the power to commence, defend, and conduct in the  
20 title insurance company's name any action or proceeding in  
21 which it may be a party;

22 (8) the power, upon the order of the court, to sell and  
23 convey the title insurance company's assets, in whole or in  
24 part, and to sell or compound bad or doubtful debts upon  
25 such terms and conditions as may be fixed in that order;

26 (9) the power, upon the order of the court, to make and  
27 to carry out agreements with other title insurance  
28 companies, financial institutions, or with the United  
29 States or any agency of the United States for the payment  
30 or assumption of the title insurance company's  
31 liabilities, in whole or in part, and to transfer assets  
32 and to make guaranties, in whole or in part, in connection  
33 therewith;

34 (10) the power, upon the order of the court, to borrow

1 money in the name of the title insurance company and to  
2 pledge its assets as security for the loan;

3 (11) the power to terminate his or her possession and  
4 control by restoring the title insurance company to its  
5 board of directors;

6 (12) the power to appoint a receiver which may be the  
7 Secretary of the Department of Financial and Professional  
8 Regulation, another title insurance company, or another  
9 suitable person and to order liquidation of the title  
10 insurance company as provided in this Act; and

11 (13) the power, upon the order of the court and without  
12 the appointment of a receiver, to determine that the title  
13 insurance company has been closed for the purpose of  
14 liquidation without adequate provision being made for  
15 payment of its obligations, and thereupon the title  
16 insurance company shall be deemed to have been closed on  
17 account of inability to meet its obligations to its  
18 insureds or escrow depositors.

19 (f) Upon taking possession, the Secretary shall make an  
20 examination of the condition of the title insurance company, an  
21 inventory of the assets and, unless the time shall be extended  
22 by order of the court or unless the Secretary shall have  
23 otherwise settled the affairs of the title insurance company  
24 pursuant to the provisions of this Act, within 90 days after  
25 the time of taking possession and control of the title  
26 insurance company, the Secretary shall either terminate his or  
27 her possession and control by restoring the title insurance  
28 company to its board of directors or appoint a receiver, which  
29 may be the Secretary of the Department of Financial and  
30 Professional Regulation, another title insurance company, or  
31 another suitable person and order the liquidation of the title  
32 insurance company as provided in this Act. All necessary and  
33 reasonable expenses of the Secretary's possession and control  
34 shall be a priority claim and shall be borne by the title

1 insurance company and may be paid by the Secretary from the  
2 title insurance company's own assets as distinguished from  
3 assets held for any other person.

4 (g) If the Secretary takes possession and control of a  
5 title insurance company and its assets, any period of  
6 limitation fixed by a statute or agreement that would otherwise  
7 expire on a claim or right of action of the title insurance  
8 company, on its own behalf or on behalf of its insureds or  
9 escrow depositors, or upon which an appeal must be taken or a  
10 pleading or other document filed by the title insurance company  
11 in any pending action or proceeding, shall be tolled until 6  
12 months after the commencement of the possession, and no  
13 judgment, lien, levy, attachment, or other similar legal  
14 process may be enforced upon or satisfied, in whole or in part,  
15 from any asset of the title insurance company or from any asset  
16 of an insured or escrow depositor while it is in the possession  
17 of the Secretary.

18 (h) If the Secretary appoints a receiver to take possession  
19 and control of the assets of insureds or escrow depositors for  
20 the purpose of holding those assets as fiduciary for the  
21 benefit of the insureds or escrow depositors pending the  
22 winding up of the affairs of the title insurance company being  
23 liquidated and the appointment of a successor escrowee for  
24 those assets, any period of limitation fixed by statute, rule  
25 of court, or agreement that would otherwise expire on a claim  
26 or right of action in favor of or against the insureds or  
27 escrow depositors of those assets or upon which an appeal must  
28 be taken or a pleading or other document filed by a title  
29 insurance company on behalf of an insured or escrow depositor  
30 in any pending action or proceeding shall be tolled for a  
31 period of 6 months after the appointment of a receiver, and no  
32 judgment, lien, levy, attachment, or other similar legal  
33 process shall be enforced upon or satisfied, in whole or in  
34 part, from any asset of the insured or escrow depositor while

1 it is in the possession of the receiver.

2 (i) If the Secretary determines at any time that no  
3 reasonable possibility exists for the title insurance company  
4 to be operated by its board of directors in accordance with the  
5 provisions of this Act after reasonable efforts have been made  
6 and that it should be liquidated through receivership, he or  
7 she shall appoint a receiver. The Secretary may require of the  
8 receiver such bond and security as the Secretary deems proper.  
9 The Secretary, represented by the Attorney General, shall file  
10 a complaint for the dissolution or winding up of the affairs of  
11 the title insurance company in a court of the county in which  
12 the principal office of the title insurance company is located  
13 and shall cause notice to be given in a newspaper of general  
14 circulation once each week for 4 consecutive weeks so that  
15 persons who may have claims against the title insurance company  
16 may present them to the receiver and make legal proof thereof  
17 and notifying those persons and all to whom it may concern of  
18 the filing of a complaint for the dissolution or winding up of  
19 the affairs of the title insurance company and stating the name  
20 and location of the court. All persons who may have claims  
21 against the assets of the title insurance company, as  
22 distinguished from the assets of insureds and escrow depositors  
23 held by the title insurance company, and the receiver to whom  
24 those persons have presented their claims may present the  
25 claims to the clerk of the court, and the allowance or  
26 disallowance of the claims by the court in connection with the  
27 proceedings shall be deemed an adjudication in a court of  
28 competent jurisdiction. Within a reasonable time after  
29 completion of publication, the receiver shall file with the  
30 court a correct list of all creditors of the title insurance  
31 company as shown by its books, who have not presented their  
32 claims and the amount of their respective claims after allowing  
33 adjusted credit, deductions, and set-offs as shown by the books  
34 of the title insurance company. The claims so filed shall be

1 deemed proven unless objections are filed thereto by a party or  
2 parties interested therein within the time fixed by the court.

3 (j) The receiver for a title insurance company has the  
4 power and authority and is charged with the duties and  
5 responsibilities as follows:

6 (1) To take possession of and, for the purpose of the  
7 receivership, title to the books, records, and assets of  
8 every description of the title insurance company.

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

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

13 (4) To sell the real and personal property of the title  
14 insurance company, as distinguished from the real and  
15 personal property of the insureds or escrow depositors, on  
16 such terms as the court shall direct.

17 (5) To file with the Secretary a copy of each report  
18 that he or she makes to the court, together with such other  
19 reports and records as the Secretary may require.

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

23 (7) To surrender to the insureds and escrow depositors  
24 of the title insurance company, when requested in writing  
25 directed to the receiver by them, the escrowed funds (on a  
26 pro rata basis), and escrowed documents in the receiver's  
27 possession upon satisfactory proof of ownership and  
28 determination by the receiver of available escrow funds.

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

34 (k) Whenever the receiver finds it necessary in his or her

1 opinion to use and employ money of the title insurance company  
2 in order to protect fully and benefit the title insurance  
3 company by the purchase or redemption of property, real or  
4 personal, in which the title insurance company may have any  
5 rights by reason of any bond, mortgage, assignment, or other  
6 claim thereto, the receiver may certify the facts together with  
7 the receiver's opinions as to the value of the property  
8 involved and the value of the equity the title insurance  
9 company may have in the property to the court, together with a  
10 request for the right and authority to use and employ so much  
11 of the money of the title insurance company as may be necessary  
12 to purchase the property, or to redeem the property from a sale  
13 if there was a sale, and if the request is granted, the  
14 receiver may use so much of the money of the title insurance  
15 company as the court may have authorized to purchase the  
16 property at the sale.

17 The receiver shall deposit daily all moneys collected by  
18 him or her in any State or national bank approved by the court.  
19 The deposits shall be made in the name of the Secretary, in  
20 trust for the receiver, and be subject to withdrawal upon the  
21 receiver's order or upon the order of those persons the  
22 Secretary may designate. The moneys may be deposited without  
23 interest, unless otherwise agreed. The receiver shall do the  
24 things and take the steps from time to time under the direction  
25 and approval of the court that may reasonably appear to be  
26 necessary to conserve the title insurance company's assets and  
27 secure the best interests of the creditors, insureds, and  
28 escrow depositors of the title insurance company. The receiver  
29 shall record any judgment of dissolution entered in a  
30 dissolution proceeding and thereupon turn over to the Secretary  
31 a certified copy of the judgment.

32 The receiver may cause all assets of the insureds and  
33 escrow depositors of the title insurance company to be  
34 registered in the name of the receiver or in the name of the

1 receiver's nominee.

2 For its services in administering the escrows held by the  
3 title insurance company during the period of winding up the  
4 affairs of the title insurance company, the receiver is  
5 entitled to be reimbursed for all costs and expenses incurred  
6 by the receiver and shall also be entitled to receive out of  
7 the assets of the individual escrows being administered by the  
8 receiver during the period of winding up the affairs of the  
9 title insurance company and prior to the appointment of a  
10 successor escrowee the usual and customary fees charged by an  
11 escrowee for escrows or reasonable fees approved by the court.

12 The receiver, during its administration of the escrows of  
13 the title insurance company during the winding up of the  
14 affairs of the title insurance company, shall have all of the  
15 powers that are vested in trustees under the terms and  
16 provisions of the Trusts and Trustees Act.

17 Upon the appointment of a successor escrowee, the receiver  
18 shall deliver to the successor escrowee all of the assets  
19 belonging to each individual escrow to which the successor  
20 escrowee succeeds, and the receiver shall thereupon be relieved  
21 of any further duties or obligations with respect thereto.

22 (1) The receiver shall, upon approval by the court, pay all  
23 claims against the assets of the title insurance company  
24 allowed by the court pursuant to subsection (i) of this  
25 Section, as well as claims against the assets of insureds and  
26 escrow depositors of the title insurance company in accordance  
27 with the following priority:

28 (1) All necessary and reasonable expenses of the  
29 Secretary's possession and control and of its receivership  
30 shall be paid from the assets of the title insurance  
31 company.

32 (2) All usual and customary fees charged for services  
33 in administering escrows shall be paid from the assets of  
34 the individual escrows being administered. If the assets of

1       the individual escrows being administered are  
2       insufficient, the fees shall be paid from the assets of the  
3       title insurance company.

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

9       (4) Claims by policyholders, beneficiaries, insureds,  
10       and escrow depositors of the title insurance company shall  
11       be paid from the assets of the insureds and escrow  
12       depositors. If there are insufficient assets of the  
13       insureds and escrow depositors, claims shall be paid from  
14       the assets of the title insurance company.

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

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

22       (7) All other claims of general creditors not falling  
23       within any priority under this subsection (1) including  
24       claims for taxes and debts due any state or local  
25       government which are not secured claims and claims for  
26       attorney's fees incurred by the title insurance company in  
27       contesting the dissolution shall be paid from the assets of  
28       the title insurance company.

29       (8) Proprietary claims asserted by an owner, member, or  
30       stockholder of the title insurance company in receivership  
31       shall be paid from the assets of the title insurance  
32       company.

33       The receiver shall pay all claims of equal priority  
34       according to the schedule set out in this subsection, and shall

1 not pay claims of lower priority until all higher priority  
2 claims are satisfied. If insufficient assets are available to  
3 meet all claims of equal priority, those assets shall be  
4 distributed pro rata among those claims. All unclaimed assets  
5 of the title insurance company shall be deposited with the  
6 receiver to be paid out by him or her when such claims are  
7 submitted and allowed by the court.

8 (m) At the termination of the receiver's administration,  
9 the receiver shall petition the court for the entry of a  
10 judgment of dissolution. After a hearing upon the notice as the  
11 court may prescribe, the court may enter a judgment of  
12 dissolution whereupon the title insurance company's corporate  
13 existence shall be terminated and the receivership concluded.

14 (n) The receiver shall serve at the pleasure of the  
15 Secretary and upon the death, inability to act, resignation, or  
16 removal by the Secretary of a receiver, the Secretary may  
17 appoint a successor, and upon the appointment, all rights and  
18 duties of the predecessor shall at once devolve upon the  
19 appointee.

20 (o) Whenever the Secretary shall have taken possession and  
21 control of a title insurance company or a title insurance agent  
22 and its assets for the purpose of examination, reorganization  
23 or liquidation through receivership, or whenever the Secretary  
24 shall have appointed a receiver for a title insurance company  
25 or title insurance agent and filed a complaint for the  
26 dissolution or winding up of its affairs, and the title  
27 insurance company or title insurance agent denies the grounds  
28 for such actions, it may at any time within 10 days apply to  
29 the Circuit Court of Cook or Sangamon County to enjoin further  
30 proceedings in the premises; and the Court shall cite the  
31 Secretary to show cause why further proceedings should not be  
32 enjoined, and if the Court shall find that grounds do not  
33 exist, the Court shall make an order enjoining the Secretary or  
34 any receiver acting under his direction from all further

1 proceedings on account of the alleged grounds.

2 (215 ILCS 155/21.2 new)

3 Sec. 21.2. Notice.

4 (a) Notice of any action by the Secretary under this Act or  
5 regulations or orders promulgated under it shall be made either  
6 personally or by registered or certified mail, return receipt  
7 requested, and by sending a copy of the notice by telephone  
8 facsimile or electronic mail, if known and operating, and if  
9 unknown or not operating, then by regular mail. Service by mail  
10 shall be deemed completed if the notice is deposited as  
11 registered or certified mail in the post office, postage paid,  
12 addressed to the last known address specified in the  
13 application for the certificate of authority to do business or  
14 certificate of registration of the holder or registrant.

15 (b) The Secretary shall notify all registered agents of a  
16 title insurance company when that title insurance company's  
17 certificate of authority is suspended or revoked.

18 (215 ILCS 155/21.3 new)

19 Sec. 21.3. Record retention. Evidence of the examination of  
20 title, if any, and determination of insurability for business  
21 written by a title insurance company or its title insurance  
22 agent and records relating to escrow, closings, and security  
23 deposits shall be preserved and retained by the title insurance  
24 company or its title insurance agent for as long as appropriate  
25 to the circumstances, but in no event less than 7 years after  
26 the title insurance policy has been issued or the escrow,  
27 closing, or security deposit account has been closed or as  
28 provided by applicable federal law. This Section shall not  
29 apply to a title insurance company acting as a coinsurer if one  
30 of the other coinsurers has complied with this Section.

31 (215 ILCS 155/22) (from Ch. 73, par. 1422)

1           Sec. 22. Tax indemnity; notice. A corporation authorized to  
2 do business under this Act shall notify the Director of Revenue  
3 of the State of Illinois, by notice directed to his office in  
4 the City of Chicago, of each trust account or similar account  
5 established which relates to title exceptions due to a judgment  
6 lien or any other lien arising under any tax Act administered  
7 by the Illinois Department of Revenue, when notice of such lien  
8 has been filed with the registrar of titles or recorder, as the  
9 case may be, in the manner prescribed by law. Such notice shall  
10 contain the name, address, and tax identification number of the  
11 debtor, the permanent real estate index numbers, if any, and  
12 the address and legal description of the property, the type of  
13 lien claimed by the Department and identification of any trust  
14 fund or similar account held by such corporation or any agent  
15 thereof relating to such lien. Any trust fund or similar  
16 account established by such corporation or agent relating to  
17 any such lien shall include provisions requiring such  
18 corporation or agent to apply such fund in satisfaction or  
19 release of such lien upon written demand therefor by the  
20 Department of Revenue.

21       (Source: P.A. 86-239.)

22           (215 ILCS 155/23) (from Ch. 73, par. 1423)

23           Sec. 23. Violation; penalties.

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

27           (b) Nothing contained in this Section shall affect the  
28 right of the Secretary to revoke or suspend a title insurance  
29 company's or independent escrowee's certificate of authority  
30 or a title insurance agent's registration under any other  
31 Section of this Act.

32       (Source: P.A. 86-239.)

1 (215 ILCS 155/24) (from Ch. 73, par. 1424)

2 Sec. 24. Referral fee; penalty. Except as permitted by this  
3 Act or by federal law, regulations or opinion letters, no  
4 person shall pay or accept, directly or indirectly, any  
5 commission, discount, referral fee or other consideration as  
6 inducement or compensation for the referral of title business  
7 or for the referral of any escrow or other service from a title  
8 insurance company, independent escrowee or title insurance  
9 agent.

10 Any violation of this Section 24 is a Class A misdemeanor.

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

12 (215 ILCS 155/25) (from Ch. 73, par. 1425)

13 Sec. 25. Actual damages; injunctive relief.

14 (a) Any person or persons who violate the prohibitions or  
15 limitations of subsection (a) of Section 21 of this Act shall  
16 be liable to the person or persons charged for the settlement  
17 service involved in the violation for actual damages.

18 (b) Any title insurance company or a title insurance agent  
19 who violates the prohibitions or limitations of subsection (a)  
20 of Section 21 of this Act shall be subject to injunctive  
21 relief. If a permanent injunction is granted, the court may  
22 award actual damages. Reasonable attorney's fees and costs may  
23 be awarded to the prevailing party.

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

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