



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2648

Introduced 4/10/2025, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

See Index

Amends the Title Insurance Act. Provides for the enforcement of the Act by the Department of Insurance (rather than the Department of Financial and Professional Regulation). Provides that all powers, duties, rights, and responsibilities of the Department of Financial and Professional Regulation and the Secretary of Financial and Professional Regulation under the Act are transferred to the Department of Insurance and Director of Insurance, respectively. Provides for the transfer of books, records, papers, documents, property, contracts, causes of action, pending business, and certain funds from the Department of Financial and Professional Regulation to the Department of Insurance. Provides that rules and proposed rules by the Department of Financial and Professional Regulation under the Act shall become rules and proposed rules of the Department of Insurance. Provides that all moneys received by the Department of Insurance under the Act shall be deposited into the Insurance Financial Regulation Fund (rather than the Financial Institution Fund). Makes conforming and grammatical changes throughout the Act. Amends the State Finance Act and the Financial Institutions Act to make conforming changes. Amends the Residential Real Property Disclosure Act to transfer authority over the predatory lending database from the Department of Financial and Professional Regulation to the Department of Insurance.

LRB104 13158 BAB 25290 b

1 AN ACT concerning regulation.

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

4 Section 5. The Financial Institutions Act is amended by
5 changing Section 6 as follows:

6 (20 ILCS 1205/6)

7 Sec. 6. General powers and duties. In addition to the
8 powers and duties provided by law and imposed elsewhere in
9 this Act, the Division has the following powers and duties:

10 (1) To administer and enforce the Consumer Installment
11 Loan Act and its implementing rules.

12 (2) To administer and enforce the Currency Exchange
13 Act and its implementing rules.

14 (3) To administer and enforce the Debt Management
15 Service Act and its implementing rules.

16 (4) To administer and enforce the Debt Settlement
17 Consumer Protection Act and its implementing rules.

18 (5) To administer and enforce the Illinois Development
19 Credit Corporation Act and its implementing rules.

20 (6) To administer and enforce the Payday Loan Reform
21 Act and its implementing rules.

22 (7) To administer and enforce the Safety Deposit
23 License Act and its implementing rules.

1 (8) To administer and enforce the Sales Finance Agency
2 Act and its implementing rules.

3 (9) (Blank). ~~To administer and enforce the Title~~
4 ~~Insurance Act and its implementing rules.~~

5 (10) To administer and enforce the Transmitters of
6 Money Act and its implementing rules.

7 (11) To administer and enforce the Predatory Loan
8 Prevention Act and its implementing rules.

9 (12) To administer and enforce the Motor Vehicle
10 Retail Installment Sales Act and its implementing rules.

11 (13) To administer and enforce the Retail Installment
12 Sales Act and its implementing rules.

13 (14) To administer and enforce the Illinois Credit
14 Union Act and its implementing rules.

15 (15) To administer and enforce the Collection Agency
16 Act and its implementing rules.

17 (16) To administer and enforce the Consumer Legal
18 Funding Act and its implementing rules.

19 (17) To administer and enforce this Act and any other
20 Act administered by the Director or Division.

21 (18) To authorize and administer examinations to
22 ascertain the qualifications of applicants and licensees
23 for which the examination is held.

24 (19) To conduct hearings in proceedings to revoke,
25 suspend, refuse to renew, or take other disciplinary
26 action regarding licenses, charters, certifications,

1 registrations, or authorities of persons as authorized in
2 any Act administered by the Division.

3 Whenever the Division is authorized or required by law to
4 consider some aspect of criminal history record information
5 for the purpose of carrying out its statutory powers and
6 responsibilities, then, upon request and payment of fees in
7 conformance with the requirements of Section 2605-400 of the
8 Illinois State Police Law, the Illinois State Police is
9 authorized to furnish, pursuant to positive identification,
10 the information contained in State files that is necessary to
11 fulfill the request.

12 (Source: P.A. 102-538, eff. 8-20-21; 102-813, eff. 5-13-22;
13 102-975, eff. 1-1-23; 103-154, eff. 6-30-23; 103-1014, eff.
14 8-9-24.)

15 Section 10. The State Finance Act is amended by changing
16 Section 6z-26 as follows:

17 (30 ILCS 105/6z-26)

18 Sec. 6z-26. The Financial Institution Fund. All moneys
19 received by the Department of Financial and Professional
20 Regulation under the Safety Deposit License Act, the Foreign
21 Exchange License Act, the Pawnors Societies Act, the Sale of
22 Exchange Act, the Currency Exchange Act, the Sales Finance
23 Agency Act, the Debt Management Service Act, the Consumer
24 Installment Loan Act, the Illinois Development Credit

1 Corporation Act, ~~the Title Insurance Act,~~ the Debt Settlement
2 Consumer Protection Act, the Debt Management Service Consumer
3 Protection Fund, and any other Act administered by the
4 Department of Financial and Professional Regulation as the
5 successor of the Department of Financial Institutions now or
6 in the future (unless an Act specifically provides otherwise)
7 shall be deposited in the Financial Institution Fund
8 (hereinafter "Fund"), a special fund that is hereby created in
9 the State Treasury.

10 Moneys in the Fund shall be used by the Department,
11 subject to appropriation, for expenses incurred in
12 administering the above named and referenced Acts.

13 The Comptroller and the State Treasurer shall transfer
14 from the General Revenue Fund to the Fund any monies received
15 by the Department after June 30, 1993, under any of the above
16 named and referenced Acts that have been deposited in the
17 General Revenue Fund.

18 As soon as possible after the end of each calendar year,
19 the Comptroller shall compare the balance in the Fund at the
20 end of the calendar year with the amount appropriated from the
21 Fund for the fiscal year beginning on July 1 of that calendar
22 year. If the balance in the Fund exceeds the amount
23 appropriated, the Comptroller and the State Treasurer shall
24 transfer from the Fund to the General Revenue Fund an amount
25 equal to the difference between the balance in the Fund and the
26 amount appropriated.

1 Nothing in this Section shall be construed to prohibit
2 appropriations from the General Revenue Fund for expenses
3 incurred in the administration of the above named and
4 referenced Acts.

5 Moneys in the Fund may be transferred to the Professions
6 Indirect Cost Fund, as authorized under Section 2105-300 of
7 the Department of Professional Regulation Law of the Civil
8 Administrative Code of Illinois.

9 (Source: P.A. 96-1420, eff. 8-3-10.)

10 Section 15. The Title Insurance Act is amended by changing
11 Sections 3, 4, 4.1, 5, 6, 7, 8, 9, 12, 13, 14.1, 16, 16.1, 17,
12 17.1, 18, 19, 20, 21, 21.1, 21.2, 22, and 23 and by adding
13 Section 3.5 as follows:

14 (215 ILCS 155/3) (from Ch. 73, par. 1403)

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

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

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

22 (B) Transacting or proposing to transact one or more
23 of the following activities when conducted or performed in
24 contemplation of or in conjunction with the issuance of

1 title insurance;

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

4 (ii) guaranteeing, warranting, or otherwise
5 insuring the correctness of title searches for all
6 instruments affecting titles to real property, any
7 interest in real property, cooperative units and
8 proprietary leases, and for all liens or charges
9 affecting the same;

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

12 (iv) executing title insurance policies;

13 (v) effecting contracts of reinsurance;

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

15 or

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

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

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

26 (E) Doing or proposing to do any business

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

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

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

26 (3) "Title insurance agent" means a person, firm,

1 partnership, association, corporation or other legal entity
2 registered by a title insurance company and authorized by such
3 company to determine insurability of title in accordance with
4 generally acceptable underwriting rules and standards in
5 reliance on either the public records or a search package
6 prepared from a title plant, or both, and authorized by such
7 title insurance company in addition to do any of the
8 following: act as an escrow agent pursuant to subsections (f),
9 (g), and (h) of Section 16 of this Act, solicit title
10 insurance, collect premiums, or issue title insurance
11 commitments, policies, and endorsements of the title insurance
12 company; provided, however, the term "title insurance agent"
13 shall not include officers and salaried employees of any title
14 insurance company.

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

24 (5) "Associate" is any firm, association, partnership,
25 corporation or other legal entity organized for profit in
26 which a producer of title business is a director, officer, or

1 partner thereof, or owner of a financial interest, as defined
2 herein, in such entity; any legal entity that controls, is
3 controlled by, or is under common control with a producer of
4 title business; and any natural person or legal entity with
5 whom a producer of title business has any agreement,
6 arrangement, or understanding or pursues any course of conduct
7 the purpose of which is to evade the provisions of this Act.

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

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

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

25 (9) "Independent Escrowee" means any firm, person,
26 partnership, association, corporation or other legal entity,

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

19 (10) "Single risk" means the insured amount of any title
20 insurance policy, except that where 2 or more title insurance
21 policies are issued simultaneously covering different estates
22 in the same real property, "single risk" means the sum of the
23 insured amounts of all such title insurance policies. Any
24 title insurance policy insuring a mortgage interest, a claim
25 payment under which reduces the insured amount of a fee or
26 leasehold title insurance policy, shall be excluded in

1 computing the amount of a single risk to the extent that the
2 insured amount of the mortgage title insurance policy does not
3 exceed the insured amount of the fee or leasehold title
4 insurance policy.

5 (11) "Department" means the Department of Insurance
6 ~~Financial and Professional Regulation.~~

7 (12) "Director" means the Director of Insurance
8 ~~"Secretary" means the Secretary of Financial and Professional~~
9 ~~Regulation.~~

10 (13) "Insured closing letter" or "closing protection
11 letter" means an indemnification or undertaking to a party to
12 a real property transaction, from a principal such as a title
13 insurance company, setting forth in writing the extent of the
14 principal's responsibility for intentional misconduct or
15 errors in closing the real property transaction on the part of
16 a settlement agent, such as a title insurance agent or other
17 settlement service provider, or an indemnification or
18 undertaking given by a title insurance company or an
19 independent escrowee setting forth in writing the extent of
20 the title insurance company's or independent escrowee's
21 responsibility to a party to a real property transaction which
22 indemnifies the party against the intentional misconduct or
23 errors in closing the real property transaction on the part of
24 the title insurance company or independent escrowee and
25 includes protection afforded pursuant to subsections (f), (g),
26 and (h) of Section 16, Section 16.1, subsection (h) of Section

1 17, and Section 17.1 of this Act even if such protection is
2 afforded by contract.

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

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

18 (Source: P.A. 100-485, eff. 9-8-17.)

19 (215 ILCS 155/3.5 new)

20 Sec. 3.5. Transfer of enforcement of Act to the Department
21 of Insurance.

22 (a) On and after the effective date of this amendatory Act
23 of the 104th General Assembly:

24 (1) All powers, duties, rights, and responsibilities
25 of the Department of Financial and Professional Regulation

1 under this Act are transferred to the Department of
2 Insurance.

3 (2) All powers, duties, rights, and responsibilities
4 of the Secretary of Financial and Professional Regulation
5 under this Act are transferred to the Director of
6 Insurance.

7 (3) All books, records, papers, documents, property
8 (real and personal), contracts, causes of action, and
9 pending business of the Department of Financial and
10 Professional Regulation for the purposes of this Act shall
11 be transferred to the Department of Insurance.

12 (4) All unexpended appropriations and balances and
13 other funds available for use by the Department of
14 Financial and Professional Regulation deposited into the
15 Financial Institution Fund from funds received under this
16 Act shall be transferred for use by the Department of
17 Insurance for the purposes of this Act into the Insurance
18 Financial Regulation Fund. Unexpended balances so
19 transferred shall be expended only for the purpose for
20 which the appropriations were originally made.

21 (5) Any rules of the Department of Financial and
22 Professional Regulation for the purposes of this Act that
23 are in full force on the effective date of this amendatory
24 Act of the 104th General Assembly shall become the rules
25 of the Department of Insurance. This Section does not
26 affect the legality of any such rules in the Illinois

1 Administrative Code.

2 (6) Any proposed rules filed with the Secretary of
3 State by the Department of Financial and Professional
4 Regulation for the purposes of this Act that are pending
5 in the rulemaking process on the effective date of this
6 amendatory Act of the 104th General Assembly, and that
7 pertain to the powers, duties, rights, and
8 responsibilities transferred under this Section, shall be
9 deemed to have been filed by the Department of Insurance.

10 As soon as practicable, the Department of Insurance shall
11 revise and clarify the rules transferred to it under this
12 Section using the procedures for recodification of rules
13 available under the Illinois Administrative Procedure Act,
14 except that existing title, part, and section numbering
15 for the affected rules may be retained. The Department of
16 Insurance may propose and adopt under the Illinois
17 Administrative Procedure Act such other rules of the
18 Department of Financial and Professional Regulation for
19 the purposes of this Act that will now be administered by
20 the Department of Insurance.

21 (b) The status and rights of the employees and the State or
22 its transferring agencies under the Personnel Code, the
23 Illinois Public Labor Relations Act, applicable collective
24 bargaining agreements, or any pension, retirement, or annuity
25 plan shall not be affected by this amendatory Act of the 104th
26 General Assembly.

1 (215 ILCS 155/4) (from Ch. 73, par. 1404)

2 Sec. 4. Deposits.

3 (a) Before doing business in the State of Illinois, a
4 title insurance company must file with and have approved by
5 the Director ~~Secretary~~ cash or bonds of the United States,
6 this State or any body politic of this State in amounts as
7 specified in subsection (b). The deposit is not to be
8 otherwise pledged or subject to distribution among creditors
9 or stockholders until all claims of escrow depositors, claims
10 of policyholders, and claims under reinsurance contracts have
11 been paid in full or discharged, reinsured, or otherwise
12 assumed by a title insurance company authorized to do business
13 under this Act. The cash, bonds, and securities so deposited
14 may be exchanged for other such securities. No such cash,
15 bond, or security shall be sold or transferred by the Director
16 ~~Secretary~~ except on order of the circuit court or as provided
17 in subsection (d). As long as the company depositing such
18 securities remains solvent, the company shall be permitted to
19 receive from the Director ~~Secretary~~ the interest on such
20 deposit.

21 (b) The deposit required under subsection (a) must have a
22 then current value of \$1,000,000. All deposits shall be held
23 for the benefit of any insured under a policy the title
24 insurance company issued or named party to a written escrow it
25 accepted. The deposit is not to be otherwise pledged or

1 subject to distribution among creditors or stockholders.

2 (c) The Director ~~Secretary~~ may provide for custody of the
3 deposits by any trust company or bank located in this State and
4 qualified to do business under the Corporate Fiduciary Act, as
5 now or hereafter amended. The compensation, if any, of such
6 custodian shall be paid by the depositing company. When the
7 required deposits have been made by a title insurance company,
8 the Director ~~Secretary~~ shall certify that the company has
9 complied with the provisions of this Section and is authorized
10 to transact the business of insuring and guaranteeing titles
11 to real estate.

12 (d) If, at any time, a title insurance company causes all
13 of its unexpired policies, escrow deposits, and reinsurance
14 obligations in Illinois to be paid in full, cancelled,
15 discharged, reinsured, or otherwise assumed by another title
16 insurance company authorized to do business under this Act,
17 the Director ~~Secretary~~ shall, upon application of the company,
18 verified by the oath of its president or secretary and on being
19 satisfied by an examination of its books and its officers
20 under oath that all of its policies are paid in full,
21 cancelled, discharged, reinsured, or otherwise assumed,
22 authorize the release of any bond or deposit posted under this
23 Section.

24 (e) The Director ~~Secretary~~ may revoke the certificate of
25 authority of a company that fails to maintain the deposit
26 required by this Section. The Director ~~Secretary~~ shall give

1 notice of that revocation to the company as provided by this
2 Act, and during the time of the revocation, the company may not
3 conduct a title insurance business. A company may complete
4 contractual obligations, such as issuing a policy where the
5 obligations have already been assumed. However, it may not
6 solicit new business, complete new searches or examinations,
7 or close transactions. A revocation shall not be set aside
8 until a good and sufficient deposit has been filed with the
9 Director ~~Secretary~~ and the company is otherwise in compliance
10 with this Act.

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

12 (215 ILCS 155/4.1)

13 Sec. 4.1. Minimum capital and surplus. Before doing
14 business in the State of Illinois, a title insurance company
15 must satisfy the Director ~~Secretary~~ that it has a minimum
16 capital and surplus of \$2,000,000. The Director ~~Secretary~~ may
17 provide the forms and standards for this purpose by rule.

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

19 (215 ILCS 155/5) (from Ch. 73, par. 1405)

20 Sec. 5. Certificate of authority required. It is unlawful
21 for any company to engage or to continue in the business of
22 title insurance without first procuring from the Director
23 ~~Secretary~~ a certificate of authority stating that the company
24 has complied with the requirements of Section 4 of this Act. An

1 insurer that transacts any class of insurance other than title
2 insurance anywhere in the United States is not eligible for
3 the issuance of a certificate of authority to transact title
4 insurance in this State nor for a renewal of a certificate of
5 authority.

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

7 (215 ILCS 155/6) (from Ch. 73, par. 1406)

8 Sec. 6. Reinsurance.

9 (a) A title insurance company may obtain reinsurance for
10 all or any part of its liability under one or more of its title
11 insurance policies or reinsurance agreements and may also
12 reinsure title insurance policies issued by other title
13 insurance companies on risks located in this State or
14 elsewhere.

15 (a-5) Notwithstanding any other provision of this Act, a
16 title insurance company may obtain reinsurance for all or any
17 part of its liability under one or more of its title insurance
18 policies from an assuming insurer with a financial strength
19 rating of A- or better from A.M. Best Company, Inc., or with an
20 alternative rating the Department may approve that the
21 Department determines is an equivalent rating by another
22 recognized rating organization.

23 (b) A title insurance company licensed to do business in
24 this State shall retain at least \$100,000 of primary liability
25 for policies it issues, unless a lesser sum is authorized by

1 the Director ~~Secretary~~. A lesser sum may be retained at the
2 request of an insured for a particular policy. This subsection
3 (b) applies only to policies issued on or after the effective
4 date of this amendatory Act of the 94th General Assembly.

5 (Source: P.A. 100-570, eff. 6-1-18.)

6 (215 ILCS 155/7) (from Ch. 73, par. 1407)

7 Sec. 7. Investments.

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

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

1 (c) Any investment of a domestic title insurance company
2 acquired before the effective date of this Act and which,
3 under this Section, would be considered ineligible as an
4 investment on that date shall be disposed of within 2 years of
5 the effective date of this Act. The Director ~~Secretary~~, upon
6 application and proof that forced sale of any such investment
7 would be contrary to the best interests of the title insurer or
8 its policyholders, may extend the period for disposal of the
9 investment for a reasonable time.

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

11 (215 ILCS 155/8) (from Ch. 73, par. 1408)

12 Sec. 8. Retained liability.

13 (a) The net retained liability of a title insurance
14 company for a single risk on property located in this State,
15 whether assumed directly or as reinsurance, may not exceed the
16 total surplus to policyholders as shown in the most recent
17 annual statement of the title insurance company on file with
18 the Department.

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

22 (Source: P.A. 100-570, eff. 6-1-18.)

23 (215 ILCS 155/9) (from Ch. 73, par. 1409)

24 Sec. 9. Impairment of capital; discontinuance of issuance

1 of new policies; penalty.

2 (a) Whenever the capital of any title insurance company
3 authorized to do business under this Act is determined by the
4 circuit court, upon the application of the Director ~~Secretary~~,
5 to be impaired to the extent of 25% of its capital, or to have
6 otherwise become unsafe, the Director ~~Secretary~~ shall cancel
7 the authority of the company to do business.

8 (b) The Director ~~Secretary~~ shall give notice as provided
9 by this Act to the company to discontinue doing business until
10 its capital has been made good. The title insurance company
11 may continue to issue policies and perform other actions that
12 are required to complete contractual obligations undertaken
13 prior to the notice.

14 (c) Any officer or management employee who continues to
15 take orders for title insurance or close transactions on
16 behalf of a company after the notice to discontinue doing
17 business, and before its capital has been made good, may, for
18 each offense, be fined as provided by this Act.

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

20 (215 ILCS 155/12) (from Ch. 73, par. 1412)

21 Sec. 12. Examinations; compliance.

22 (a) The Director ~~Secretary~~ or the Director's ~~his~~
23 authorized representative shall annually visit and examine
24 ~~have the power and authority, and it shall be his duty, to~~
25 ~~cause to be visited and examined annually~~ any title insurance

1 company doing business under this Act, and ~~to~~ verify and
2 compel compliance with the provisions of law governing it.

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

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

20 (215 ILCS 155/13) (from Ch. 73, par. 1413)

21 Sec. 13. Annual statement.

22 (a) Each title insurance company shall file with the
23 Department during the month of March of each year, a statement
24 under oath, of the condition of such company on the
25 thirty-first day of December next preceding disclosing the

1 assets, liabilities, earnings and expenses of the company. The
2 report shall be in such form and shall contain such additional
3 statements and information as to the affairs, business, and
4 conditions of the company as the Director ~~Secretary~~ may from
5 time to time prescribe or require.

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

9 (c) If determined to be necessary and appropriate by the
10 Department, a title insurance company shall provide a summary
11 describing its professional reinsurance placed outside of the
12 title insurance industry.

13 (Source: P.A. 100-570, eff. 6-1-18.)

14 (215 ILCS 155/14.1)

15 Sec. 14.1. Financial Institution Fund. All moneys received
16 by the Department of Insurance ~~Financial and Professional~~
17 ~~Regulation~~ under this Act shall be deposited in the Insurance
18 Financial Regulation Fund ~~Financial Institution Fund~~ created
19 ~~under Section 6z-26 of the State Finance Act.~~

20 (Source: P.A. 98-463, eff. 8-16-13.)

21 (215 ILCS 155/16) (from Ch. 73, par. 1416)

22 Sec. 16. Title insurance agents.

23 (a) No person, firm, partnership, association, corporation
24 or other legal entity shall act as or hold itself out to be a

1 title insurance agent unless duly registered by a title
2 insurance company with the Director ~~Secretary~~.

3 (b) Each application for registration shall be made on a
4 form specified by the Director ~~Secretary~~ and prepared by each
5 title insurance company which the agent represents. The title
6 insurance company shall retain the copy of the application and
7 forward a copy to the Director ~~Secretary~~.

8 (c) Every applicant for registration, except a firm,
9 partnership, association, limited liability company, or
10 corporation, must be 18 years or more of age. Included in every
11 application for registration of a title insurance agent,
12 including a firm, partnership, association, limited liability
13 company, or corporation, shall be an affidavit of the
14 applicant title insurance agent, signed and notarized in front
15 of a notary public, affirming that the applicant and every
16 owner, officer, director, principal, member, or manager of the
17 applicant has never been convicted or pled guilty to any
18 felony or misdemeanor involving a crime of theft or dishonesty
19 or otherwise accurately disclosing any such felony or
20 misdemeanor involving a crime of theft or dishonesty. No
21 person who has had a conviction or pled guilty to any felony or
22 misdemeanor involving theft or dishonesty may be registered by
23 a title insurance company without a written notification to
24 the Director ~~Secretary~~ disclosing the conviction or plea, and
25 no such person may serve as an owner, officer, director,
26 principal, or manager of any registered title insurance agent

1 without the written permission of the Director ~~Secretary~~.

2 (d) Registration shall be made annually by a filing with
3 the Director ~~Secretary~~; supplemental registrations for new
4 title insurance agents to be added between annual filings
5 shall be made from time to time in the manner provided by the
6 Director ~~Secretary~~; registrations shall remain in effect
7 unless revoked or suspended by the Director ~~Secretary~~ or
8 voluntarily withdrawn by the registrant or the title insurance
9 company.

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

22 Interest received on funds deposited with the escrow agent
23 in connection with any escrow, settlement, or closing shall be
24 paid to the depositing party unless the instructions provide
25 otherwise.

26 The escrow agent shall maintain separate records of all

1 receipts and disbursements of escrow, settlement, or closing
2 funds.

3 The escrow agent shall comply with any rules adopted by
4 the Director ~~Secretary~~ pertaining to escrow, settlement, or
5 closing transactions.

6 (f) A title insurance agent shall not act as an escrow
7 agent in a nonresidential real property transaction where the
8 amount of settlement funds on deposit with the escrow agent is
9 less than \$2,000,000 or in a residential real property
10 transaction unless the title insurance agent, title insurance
11 company, or another authorized title insurance agent has
12 committed for the issuance of title insurance in that
13 transaction and the title insurance agent is authorized to act
14 as an escrow agent on behalf of the title insurance company for
15 which the commitment for title insurance has been issued. The
16 authorization under the preceding sentence shall be given
17 either (1) by an agency contract with the title insurance
18 company which contract, in compliance with the requirements
19 set forth in subsection (g) of this Section, authorizes the
20 title insurance agent to act as an escrow agent on behalf of
21 the title insurance company or (2) by a closing protection
22 letter in compliance with the requirements set forth in
23 Section 16.1 of this Act, issued by the title insurance
24 company to the seller, buyer, borrower, and lender. A closing
25 protection letter shall not be issued by a title insurance
26 agent. The provisions of this subsection (f) shall not apply

1 to the authority of a title insurance agent to act as an escrow
2 agent under subsection (g) of Section 17 of this Act.

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

13 (h) A title insurance company shall be liable for the acts
14 or omissions of its title insurance agent as an escrow agent if
15 the title insurance company has authorized the title insurance
16 agent under subsections (f) and (g) of this Section 16 and only
17 to the extent of the liability undertaken by the title
18 insurance company in the agency agreement or closing
19 protection letter. The liability, if any, of the title
20 insurance agent to the title insurance company for acts and
21 omissions of the title insurance agent as an escrow agent
22 shall not be limited or otherwise modified because the title
23 insurance company has provided closing protection to a party
24 or parties to a real property transaction escrow, settlement,
25 or closing. The escrow agent shall not charge a fee for
26 protection provided by a title insurance company to parties to

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

12 (i) The Director ~~Secretary~~ shall adopt and amend such
13 rules as may be required for the proper administration and
14 enforcement of this Section 16 consistent with the federal
15 Real Estate Settlement Procedures Act and Section 24 of this
16 Act.

17 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15;
18 99-104, eff. 1-1-16.)

19 (215 ILCS 155/16.1)

20 Sec. 16.1. Closing or settlement protection.

21 (a) Notwithstanding the provisions of item (iii) of
22 paragraph (B) of subsection (1) and subsections (3) and (8) of
23 Section 3 and Section 16 of this Act, a title insurance company
24 or title insurance agent is not authorized to act as an escrow
25 agent in a nonresidential real property transaction where the

1 amount of settlement funds on deposit with the escrow agent is
2 less than \$2,000,000 or in a residential real property
3 transaction unless as part of the same transaction a
4 commitment, binder, or title insurance policy and closing
5 protection letters protecting the buyer's or borrower's,
6 lender's, and seller's interests have been issued by the title
7 insurance company on whose behalf the commitment, binder, or
8 title insurance policy has been issued. Closing protection
9 letters are not required when the authorization for the title
10 insurance agent to act as an escrow agent is given by an agency
11 contract with the title insurance company pursuant to
12 subsections (f), (g), and (h) of Section 16 of this Act, but
13 shall be issued by the title insurance company upon the
14 request of a party to a nonresidential real property
15 transaction where the amount of settlement funds on deposit
16 with the escrow agent is less than \$2,000,000 or in a
17 residential real property transaction.

18 (b) Unless otherwise agreed to between a title insurance
19 company and a protected person or entity, a closing protection
20 letter under this Section shall indemnify all parties to a
21 real property transaction against actual loss, not to exceed
22 the amount of the settlement funds deposited with the escrow
23 agent. The closing protection letter shall in any event
24 indemnify all parties to a real property transaction when such
25 losses arise out of:

26 (1) failure of the escrow agent to comply with written

1 closing instructions to the extent that they relate to (A)
2 the status of the title to an interest in land or the
3 validity, enforceability, and priority of the lien of a
4 mortgage on an interest in land, including the obtaining
5 of documents and the disbursement of funds necessary to
6 establish the status of title or lien or (B) the obtaining
7 of any other document specifically required by a party to
8 the real property transaction, but only to the extent that
9 the failure to obtain such other document affects the
10 status of the title to an interest in land or the validity,
11 enforceability, and priority of the lien of a mortgage on
12 an interest in land; or

13 (2) fraud, dishonesty, or negligence of the escrow
14 agent in handling funds or documents in connection with
15 closings to the extent that the fraud, dishonesty, or
16 negligence relates to the status of the title to the
17 interest in land or to the validity, enforceability, and
18 priority of the lien of a mortgage on an interest in land
19 or, in the case of a seller, to the extent that the fraud,
20 dishonesty, or negligence relates to funds paid to or on
21 behalf of, or which should have been paid to or on behalf
22 of, the seller.

23 (c) The indemnification under a closing protection letter
24 may include limitations on the liability of the title
25 insurance company for any of the following:

26 (1) Failure of the escrow agent to comply with closing

1 instructions that require title insurance protection
2 inconsistent with that set forth in the title insurance
3 commitment for the real property transaction. Instructions
4 that require the removal of specific exceptions to title
5 or compliance with the requirements contained in the title
6 insurance commitment shall not be deemed to be
7 inconsistent.

8 (2) Loss or impairment of funds in the course of
9 collection or while on deposit with a bank due to bank
10 failure, insolvency, or suspension, except such as shall
11 result from failure of the escrow agent closer to comply
12 with written closing instructions to deposit the funds in
13 a bank that is designated by name by a party to the real
14 property transaction.

15 (3) Mechanics' and materialmen's liens in connection
16 with sale, purchase, lease, or construction loan
17 transactions, except to the extent that protection against
18 such liens is afforded by a title insurance commitment or
19 policy issued by the escrow agent.

20 (4) Failure of the escrow agent to comply with written
21 closing instructions to the extent that such instructions
22 require a determination by the escrow agent of the
23 validity, enforceability, or effectiveness of any document
24 described in subitem (B) of item (1) of subsection (b) of
25 this Section.

26 (5) Fraud, dishonesty, or negligence of an employee,

1 agent, attorney, or broker, who is not also the escrow
2 agent or an independent contract closer of the escrow
3 agent, of the indemnified party to the real property
4 transaction.

5 (6) The settlement or release of any claim by the
6 indemnified party to the real property transaction without
7 the written consent of the title insurance company.

8 (7) Any matters created, suffered, assumed, or agreed
9 to by, or known to, the indemnified party to the real
10 property transaction without the written consent of the
11 title insurance company.

12 The closing protection letter may also include reasonable
13 additional provisions concerning the dollar amount of
14 protection, provided such limit is not less than the amount
15 deposited with the escrow agent, arbitration, subrogation,
16 claim notices, and other conditions and limitations that do
17 not materially impair the protection required by this Section
18 16.1.

19 (d) This Section shall not apply to the authority of a
20 title insurance company and title insurance agent to act as an
21 escrow agent under subsection (g) of Section 17 of this Act.

22 (e) The Director ~~Secretary~~ shall adopt and amend such
23 rules as may be required for the proper administration and
24 enforcement of this Section 16.1 consistent with the federal
25 Real Estate Settlement Procedures Act and Section 24 of this
26 Act.

1 (Source: P.A. 96-1454, eff. 1-1-11.)

2 (215 ILCS 155/17) (from Ch. 73, par. 1417)

3 Sec. 17. Independent escrowees.

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

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

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

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

17 (e) An independent escrowee may engage in the escrow,
18 settlement, or closing business, or any combination of such
19 business, and operate as an escrow, settlement, or closing
20 agent, provided that:

21 (1) Funds deposited in connection with any escrow,
22 settlement, or closing shall be deposited in a separate
23 fiduciary trust account or accounts in a bank or other
24 financial institution insured by an agency of the federal
25 government unless the instructions provide otherwise. Such

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

9 (2) Interest received on funds deposited with the
10 independent escrowee in connection with any escrow,
11 settlement or closing shall be paid to the depositing
12 party unless the instructions provide otherwise.

13 (3) The independent escrowee shall maintain separate
14 records of all receipt and disbursement of escrow,
15 settlement or closing funds.

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

19 (f) The Director ~~Secretary~~ or the Director's ~~his~~
20 authorized representative shall have the power and authority
21 to visit and examine at any time any independent escrowee
22 certified under this Act and to verify and compel compliance
23 with the provisions of this Act.

24 (g) A title insurance company or title insurance agent,
25 not qualified as an independent escrowee, may act in the
26 capacity of an escrow agent when it is supplying an abstract of

1 title, grantor-grantee search, tract search, lien search, tax
2 assessment search, or other limited purpose search to the
3 parties to the transaction even if it is not issuing a title
4 insurance commitment or title insurance policy. A title
5 insurance agent may act as an escrow agent only when
6 specifically authorized in writing on forms prescribed by the
7 Director ~~Secretary~~ by a title insurance company that has duly
8 registered the agent with the Director ~~Secretary~~ and only when
9 notice of the authorization is provided to and receipt thereof
10 is acknowledged by the Director ~~Secretary~~. The authority
11 granted to a title insurance agent may be limited or revoked at
12 any time by the title insurance company.

13 (h) An independent escrowee may, pursuant to Section 17.1
14 of this Act, issue an insured closing letter if, in addition to
15 complying with the same certification and deposit requirements
16 that title insurance companies are subject to under Section 4
17 of this Act, the independent escrowee:

18 (1) Satisfies the Director ~~Secretary~~ that it has a
19 minimum capital and surplus of \$2,000,000. The Director
20 ~~Secretary~~ may provide the forms and standards for this
21 purpose by rule. This paragraph applies only to
22 independent escrowees licensed under this Act for the
23 first time on or after the effective date of this
24 amendatory Act of the 100th General Assembly.

25 (2) Files with and has approved by the Director
26 ~~Secretary~~ proof of a fidelity bond in the minimum amount

1 of \$2,000,000 per occurrence.

2 (3) Establishes and maintains a statutory closing
3 protection letter reserve for the protection of parties
4 named in warranties of services consisting of a sum of 25%
5 of the closing protection letter revenue received by the
6 independent escrowee on or after the effective date of
7 this amendatory Act of the 100th General Assembly. The
8 reserve shall be reported as a liability of the
9 independent escrowee in its financial statements. Amounts
10 placed in the statutory closing protection letter reserve
11 shall be deducted in determining the net profit of the
12 independent escrowee for the year. Except as provided in
13 this subsection, assets in value equal to the statutory
14 closing protection letter reserve are not subject to
15 distribution among creditors, stockholders, or other
16 owners of the independent escrowee until all claims of
17 parties named in warranties of services have been paid in
18 full and discharged.

19 (4) Releases from the statutory closing protection
20 letter reserve a sum equal to 10% of the amount added to
21 the reserve during a calendar year on July 1 of each of the
22 5 years following the year in which the sum was added and
23 releases from the statutory closing protection letter
24 reserve a sum equal to 3 1/3% of the amount added to the
25 reserve during that year on each succeeding July 1 until
26 the entire amount for that year has been released.

1 The Director ~~Secretary~~ shall adopt and amend rules as may
2 be required for the proper administration and enforcement of
3 this subsection (h) consistent with the federal Real Estate
4 Settlement and Procedures Act and Section 24 of this Act.

5 (Source: P.A. 100-485, eff. 9-8-17.)

6 (215 ILCS 155/17.1)

7 Sec. 17.1. Closing or settlement protection; independent
8 escrowees.

9 (a) Notwithstanding the provisions of item (iii) of
10 paragraph (B) of subsection (1) and subsection (9) of Section
11 3 of this Act, an independent escrowee is not authorized to act
12 pursuant to subsection (9) of Section 3 of this Act in a
13 nonresidential real property transaction where the amount of
14 settlement funds on deposit with the escrow agent is less than
15 \$2,000,000 or in a residential real property transaction
16 unless, as part of the same transaction, closing protection
17 letters protecting the buyer's or borrower's, lender's, and
18 seller's interests have been issued by the independent
19 escrowee.

20 (b) Unless otherwise agreed to between an independent
21 escrowee and a protected person or entity, a closing
22 protection letter under this Section shall indemnify all
23 parties to a real property transaction against actual loss,
24 not to exceed the amount of the settlement funds deposited
25 with the independent escrowee. The closing protection letter

1 shall in any event indemnify all parties to a real property
2 transaction when such losses arise out of:

3 (1) failure of the independent escrowee to comply with
4 written closing instructions to the extent that they
5 relate to (A) the status of the title to an interest in
6 land or the validity, enforceability, and priority of the
7 lien of a mortgage on an interest in land, including the
8 obtaining of documents and the disbursement of funds
9 necessary to establish the status of title or lien or (B)
10 the obtaining of any other document specifically required
11 by a party to the real property transaction, but only to
12 the extent that the failure to obtain such other document
13 affects the status of the title to an interest in land or
14 the validity, enforceability, and priority of the lien of
15 a mortgage on an interest in land; or

16 (2) fraud, dishonesty, or negligence of the
17 independent escrowee in handling funds or documents in
18 connection with closings to the extent that the fraud,
19 dishonesty, or negligence relates to the status of the
20 title to the interest in land or to the validity,
21 enforceability, and priority of the lien of a mortgage on
22 an interest in land or, in the case of a seller, to the
23 extent that the fraud, dishonesty, or negligence relates
24 to funds paid to or on behalf of, or which should have been
25 paid to or on behalf of, the seller.

26 (c) The indemnification under a closing protection letter

1 may include limitations on the liability of the independent
2 escrowee for any of the following:

3 (1) Failure of the independent escrowee to comply with
4 closing instructions that require title insurance
5 protection inconsistent with that set forth in the title
6 insurance commitment for the real property transaction.
7 Instructions that require the removal of specific
8 exceptions to title or compliance with the requirements
9 contained in the title insurance commitment shall not be
10 deemed to be inconsistent.

11 (2) Loss or impairment of funds in the course of
12 collection or while on deposit with a bank due to bank
13 failure, insolvency, or suspension, except such as shall
14 result from failure of the independent escrowee closer to
15 comply with written closing instructions to deposit the
16 funds in a bank that is designated by name by a party to
17 the real property transaction.

18 (3) Mechanics' and materialmen's liens in connection
19 with sale, purchase, lease, or construction loan
20 transactions, except to the extent that protection against
21 such liens is afforded by a title insurance commitment or
22 policy issued by the title insurance agent or title
23 insurance company.

24 (4) Failure of the independent escrowee to comply with
25 written closing instructions to the extent that such
26 instructions require a determination by the independent

1 escrowee of the validity, enforceability, or effectiveness
2 of any document described in item (B) of paragraph (1) of
3 subsection (b) of this Section.

4 (5) Fraud, dishonesty, or negligence of an employee,
5 agent, attorney, or broker, who is not also the
6 independent escrowee or an independent contract closer of
7 the independent escrowee, of the indemnified party to the
8 real property transaction.

9 (6) The settlement or release of any claim by the
10 indemnified party to the real property transaction without
11 the written consent of the independent escrowee.

12 (7) Any matters created, suffered, assumed, or agreed
13 to by, or known to, the indemnified party to the real
14 property transaction without the written consent of the
15 independent escrowee.

16 The closing protection letter may also include reasonable
17 additional provisions concerning the dollar amount of
18 protection, provided the limit is no less than the amount
19 deposited with the independent escrowee, arbitration,
20 subrogation, claim notices, and other conditions and
21 limitations that do not materially impair the protection
22 required by this Section.

23 (d) The Director ~~Secretary~~ shall adopt and amend rules as
24 may be required for the proper administration and enforcement
25 of this Section consistent with the federal Real Estate
26 Settlement Procedures Act and Section 24 of this Act.

1 (Source: P.A. 100-485, eff. 9-8-17.)

2 (215 ILCS 155/18) (from Ch. 73, par. 1418)

3 Sec. 18. No referral payments; kickbacks.

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

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

1 (c) Each title insurance company, independent escrowee,
2 and title insurance agent shall file with the Director
3 ~~Secretary~~, on forms prescribed by the Director ~~Secretary~~,
4 reports setting forth the names and addresses of those
5 persons, 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. 94-893, eff. 6-20-06.)

1 (215 ILCS 155/19) (from Ch. 73, par. 1419)

2 Sec. 19. Powers of the Director ~~Secretary powers~~; pricing.

3 Nothing contained in this Act shall be construed as giving any
4 authority to the Director ~~Secretary~~ to set or otherwise adjust
5 the fees charged to the parties to the transaction for:

6 (1) issuing a title insurance policy, including any
7 service charge or administration fee for the issuance of a
8 title insurance policy;

9 (2) abstracting, searching and examining title;

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

12 (4) closing fees, escrow fees, settlement fees, and
13 like charges.

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

15 (215 ILCS 155/20) (from Ch. 73, par. 1420)

16 Sec. 20. Rules and regulations. The Director ~~Secretary~~
17 shall rely upon federal regulations and opinion letters and
18 may adopt rules and regulations as needed to implement and
19 interpret the provisions of this Act.

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

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

22 Sec. 21. Regulatory action.

23 (a) The Director ~~Secretary~~ may refuse to grant, and may

1 suspend or revoke, any certificate of authority, registration,
2 or license issued pursuant to this Act or may impose a fine for
3 a violation of this Act if he determines that the holder of or
4 applicant for such certificate, registration or license:

5 (1) has intentionally made a material misstatement or
6 fraudulent misrepresentation in relation to a matter
7 covered by this Act;

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

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

14 (4) has materially misrepresented the terms or
15 conditions of contracts or agreements to which it is a
16 party;

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

22 (6) has failed to comply with the deposit and reserve
23 requirements of this Act or any other requirements of this
24 Act;

25 (7) has committed fraud or misrepresentation in
26 applying for or procuring any certificate of authority,

1 registration, or license issued pursuant to this Act;

2 (8) has a conviction or plea of guilty or plea of nolo
3 contendere in this State or any other jurisdiction to (i)
4 any felony or (ii) a misdemeanor, an essential element of
5 which is dishonesty or fraud or larceny, embezzlement, or
6 obtaining money, property, or credit by false pretenses or
7 by means of a confidence game;

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

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

22 (11) has knowingly and willfully made any substantial
23 misrepresentation or untruthful advertising;

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

26 (13) has knowingly failed to account for or remit any

1 money or documents coming into the possession of a title
2 insurance company, title insurance agent, or independent
3 escrowee that belong to others;

4 (14) has engaged in dishonorable, unethical, or
5 unprofessional conduct of a character likely to deceive,
6 defraud, or harm the public;

7 (15) has violated the terms of a disciplinary order
8 issued by the Department;

9 (16) has disregarded or violated any provision of this
10 Act or the published rules adopted by the Department to
11 enforce this Act or has aided or abetted any individual,
12 partnership, registered limited liability partnership,
13 limited liability company, or corporation in disregarding
14 any provision of this Act or the published rules; or

15 (17) has acted as a title insurance company, title
16 insurance agent, or independent escrowee without a
17 certificate of authority, registration, or license after
18 the title insurance company, title insurance agent, or
19 independent escrowee's certificate of authority,
20 registration, or license was inoperative.

21 (b) In every case where a registration or certificate is
22 suspended or revoked, or an application for a registration or
23 certificate or renewal thereof is refused, the Director
24 ~~Secretary~~ shall serve notice of the Director's ~~his~~ action,
25 including a statement of the reasons for the ~~his~~ action, as
26 provided by this Act. When a notice of suspension or

1 revocation of a certificate of authority is given to a title
2 insurance company, the Director ~~Secretary~~ shall also notify
3 all the registered agents of that title insurance company of
4 the Director's ~~Secretary's~~ action.

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

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

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

1 order is entered pursuant to such hearing.

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

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

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

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

26 The Director ~~Secretary~~ shall have the authority to

1 prescribe rules for the administration of this Section.

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

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

10 The powers vested in the Director ~~Secretary~~ by this
11 Section are additional to any and all other powers and
12 remedies vested in the Director ~~Secretary~~ by law, and nothing
13 in this Section shall be construed as requiring that the
14 Director ~~Secretary~~ shall employ the powers conferred in this
15 Section instead of or as a condition precedent to the exercise
16 of any other power or remedy vested in the Director ~~Secretary~~.
17 (Source: P.A. 98-398, eff. 1-1-14.)

18 (215 ILCS 155/21.1)

19 Sec. 21.1. Receiver and involuntary liquidation.

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

25 (b) If the Director ~~Secretary~~, with respect to a title

1 insurance company, finds that (i) its capital is impaired or
2 it is otherwise in an unsound condition, (ii) its business is
3 being conducted in an unlawful, fraudulent, or unsafe manner,
4 (iii) it is unable to continue operations, or (iv) its
5 examination has been obstructed or impeded, the Director
6 ~~Secretary~~ may give notice to the board of directors of the
7 title insurance company of the Director's ~~his or her~~ finding
8 or findings. If the Director's ~~Secretary's~~ findings are not
9 corrected to the Director's ~~his or her~~ satisfaction within 60
10 days after the company receives the notice, the Director
11 ~~Secretary~~ shall take possession and control of the title
12 insurance company, its assets, and assets held by it for any
13 person for the purpose of examination, reorganization, or
14 liquidation through receivership.

15 If, in addition to making a finding as provided in this
16 subsection (b), the Director ~~Secretary~~ is of the opinion and
17 finds that an emergency that may result in serious losses to
18 any person exists, the Director ~~Secretary~~ may, in the
19 Director's ~~his or her~~ discretion, without having given the
20 notice provided for in this subsection, and whether or not
21 proceedings under subsection (a) of this Section have been
22 instituted or are then pending, take possession and control of
23 the title insurance company and its assets for the purpose of
24 examination, reorganization, or liquidation through
25 receivership.

26 (c) The Director ~~Secretary~~ may take possession and control

1 of a title insurance company, its assets, and assets held by it
2 for any person by posting upon the premises of each office
3 located in the State of Illinois at which it transacts its
4 business as a title insurance company a notice reciting that
5 the Director ~~Secretary~~ is assuming possession pursuant to this
6 Act and the time when the possession shall be deemed to
7 commence.

8 (d) Promptly after taking possession and control of a
9 title insurance company the Director ~~Secretary~~, represented by
10 the Attorney General, shall file a copy of the notice posted
11 upon the premises in the Circuit Court of either Cook County or
12 Sangamon County, which cause shall be entered as a court
13 action upon the dockets of the court under the name and style
14 of "In the matter of the possession and control by the Director
15 ~~Secretary of the Department of Insurance Financial and~~
16 ~~Professional Regulation~~ of (insert the name of the title
17 insurance company)". If the Director ~~Secretary~~ determines
18 (which determination may be made at the time of, or at any time
19 subsequent to, taking possession and control of a title
20 insurance company) that no practical possibility exists to
21 reorganize the title insurance company after reasonable
22 efforts have been made, the Director ~~Secretary~~, represented by
23 the Attorney General, shall also file a complaint, if it has
24 not already been done, for the appointment of a receiver or
25 other proceeding as is appropriate under the circumstances.
26 The court where the cause is docketed shall be vested with the

1 exclusive jurisdiction to hear and determine all issues and
2 matters pertaining to or connected with the Director's
3 ~~Secretary's~~ possession and control of the title insurance
4 company as provided in this Act, and any further issues and
5 matters pertaining to or connected with the Director's
6 ~~Secretary's~~ possession and control as may be submitted to the
7 court for its adjudication.

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

1 examination. The person appointed to make the examination
2 shall make a proper accounting, in the manner and scope as
3 determined by the Director ~~Secretary~~ to be practical and
4 advisable under the circumstances, on behalf of the title
5 insurance company and no guardian ad litem need be appointed
6 to review the accounting.

7 (e) The Director ~~Secretary~~, upon taking possession and
8 control of a title insurance company and its assets, shall be
9 vested with the full powers of management and control
10 including, but not limited to, the following:

11 (1) the power to continue or to discontinue the
12 business;

13 (2) the power to stop or to limit the payment of its
14 obligations;

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

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

19 (5) the power to employ and to pay any necessary
20 assistants;

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

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

26 (8) the power, upon the order of the court, to sell and

1 convey the title insurance company's assets, in whole or
2 in part, and to sell or compound bad or doubtful debts upon
3 such terms and conditions as may be fixed in that order;

4 (9) the power, upon the order of the court, to make and
5 to carry out agreements with other title insurance
6 companies, financial institutions, or with the United
7 States or any agency of the United States for the payment
8 or assumption of the title insurance company's
9 liabilities, in whole or in part, and to transfer assets
10 and to make guaranties, in whole or in part, in connection
11 therewith;

12 (10) the power, upon the order of the court, to borrow
13 money in the name of the title insurance company and to
14 pledge its assets as security for the loan;

15 (11) the power to terminate the Director's ~~his or her~~
16 possession and control by restoring the title insurance
17 company to its board of directors;

18 (12) the power to appoint a receiver which may be the
19 Director of Insurance ~~Secretary of the Department of~~
20 ~~Financial and Professional Regulation~~, another title
21 insurance company, or another suitable person and to order
22 liquidation of the title insurance company as provided in
23 this Act; and

24 (13) the power, upon the order of the court and
25 without the appointment of a receiver, to determine that
26 the title insurance company has been closed for the

1 purpose of liquidation without adequate provision being
2 made for payment of its obligations, and thereupon the
3 title insurance company shall be deemed to have been
4 closed on account of inability to meet its obligations to
5 its insureds or escrow depositors.

6 (f) Upon taking possession, the Director ~~Secretary~~ shall
7 make an examination of the condition of the title insurance
8 company, an inventory of the assets and, unless the time shall
9 be extended by order of the court or unless the Director
10 ~~Secretary~~ shall have otherwise settled the affairs of the
11 title insurance company pursuant to the provisions of this
12 Act, within 90 days after the time of taking possession and
13 control of the title insurance company, the Director ~~Secretary~~
14 shall either terminate the Director's ~~his or her~~ possession
15 and control by restoring the title insurance company to its
16 board of directors or appoint a receiver, which may be the
17 Director of Insurance ~~Secretary of the Department of Financial~~
18 ~~and Professional Regulation~~, another title insurance company,
19 or another suitable person and order the liquidation of the
20 title insurance company as provided in this Act. All necessary
21 and reasonable expenses of the Director's ~~Secretary's~~
22 possession and control shall be a priority claim and shall be
23 borne by the title insurance company and may be paid by the
24 Director ~~Secretary~~ from the title insurance company's own
25 assets as distinguished from assets held for any other person.

26 (g) If the Director ~~Secretary~~ takes possession and control

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

14 (h) If the Director ~~Secretary~~ appoints a receiver to take
15 possession and control of the assets of insureds or escrow
16 depositors for the purpose of holding those assets as
17 fiduciary for the benefit of the insureds or escrow depositors
18 pending the winding up of the affairs of the title insurance
19 company being liquidated and the appointment of a successor
20 escrowee for those assets, any period of limitation fixed by
21 statute, rule of court, or agreement that would otherwise
22 expire on a claim or right of action in favor of or against the
23 insureds or escrow depositors of those assets or upon which an
24 appeal must be taken or a pleading or other document filed by a
25 title insurance company on behalf of an insured or escrow
26 depositor in any pending action or proceeding shall be tolled

1 for a period of 6 months after the appointment of a receiver,
2 and no judgment, lien, levy, attachment, or other similar
3 legal process shall be enforced upon or satisfied, in whole or
4 in part, from any asset of the insured or escrow depositor
5 while it is in the possession of the receiver.

6 (i) If the Director ~~Secretary~~ determines at any time that
7 no reasonable possibility exists for the title insurance
8 company to be operated by its board of directors in accordance
9 with the provisions of this Act after reasonable efforts have
10 been made and that it should be liquidated through
11 receivership, he or she shall appoint a receiver. The Director
12 ~~Secretary~~ may require of the receiver such bond and security
13 as the Director ~~Secretary~~ deems proper. The Director
14 ~~Secretary~~, represented by the Attorney General, shall file a
15 complaint for the dissolution or winding up of the affairs of
16 the title insurance company in a court of the county in which
17 the principal office of the title insurance company is located
18 and shall cause notice to be given in a newspaper of general
19 circulation once each week for 4 consecutive weeks so that
20 persons who may have claims against the title insurance
21 company may present them to the receiver and make legal proof
22 thereof and notifying those persons and all to whom it may
23 concern of the filing of a complaint for the dissolution or
24 winding up of the affairs of the title insurance company and
25 stating the name and location of the court. All persons who may
26 have claims against the assets of the title insurance company,

1 as distinguished from the assets of insureds and escrow
2 depositors held by the title insurance company, and the
3 receiver to whom those persons have presented their claims may
4 present the claims to the clerk of the court, and the allowance
5 or disallowance of the claims by the court in connection with
6 the proceedings shall be deemed an adjudication in a court of
7 competent jurisdiction. Within a reasonable time after
8 completion of publication, the receiver shall file with the
9 court a correct list of all creditors of the title insurance
10 company as shown by its books, who have not presented their
11 claims and the amount of their respective claims after
12 allowing adjusted credit, deductions, and set-offs as shown by
13 the books of the title insurance company. The claims so filed
14 shall be deemed proven unless objections are filed thereto by
15 a party or parties interested therein within the time fixed by
16 the court.

17 (j) The receiver for a title insurance company has the
18 power and authority and is charged with the duties and
19 responsibilities as follows:

20 (1) To take possession of and, for the purpose of the
21 receivership, title to the books, records, and assets of
22 every description of the title insurance company.

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

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

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

5 (5) To file with the Director ~~Secretary~~ a copy of each
6 report that he or she makes to the court, together with
7 such other reports and records as the Director ~~Secretary~~
8 may require.

9 (6) To sue and defend in the receiver's ~~his or her~~ own
10 name and with respect to the affairs, assets, claims,
11 debts, and choses in action of the title insurance
12 company.

13 (7) To surrender to the insureds and escrow depositors
14 of the title insurance company, when requested in writing
15 directed to the receiver by them, the escrowed funds (on a
16 pro rata basis), and escrowed documents in the receiver's
17 possession upon satisfactory proof of ownership and
18 determination by the receiver of available escrow funds.

19 (8) To redeem or take down collateral hypothecated by
20 the title insurance company to secure its notes and other
21 evidence of indebtedness whenever the court deems it to be
22 in the best interest of the creditors of the title
23 insurance company and directs the receiver so to do.

24 (k) Whenever the receiver finds it necessary, in the
25 receiver's ~~in his or her~~ opinion, to use and employ money of
26 the title insurance company in order to protect fully and

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

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

1 insurance company. The receiver shall record any judgment of
2 dissolution entered in a dissolution proceeding and thereupon
3 turn over to the Director ~~Secretary~~ a certified copy of the
4 judgment.

5 The receiver may cause all assets of the insureds and
6 escrow depositors of the title insurance company to be
7 registered in the name of the receiver or in the name of the
8 receiver's nominee.

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

19 The receiver, during its administration of the escrows of
20 the title insurance company during the winding up of the
21 affairs of the title insurance company, shall have all of the
22 powers that are vested in trustees under the terms and
23 provisions of the Illinois Trust Code.

24 Upon the appointment of a successor escrowee, the receiver
25 shall deliver to the successor escrowee all of the assets
26 belonging to each individual escrow to which the successor

1 escrowee succeeds, and the receiver shall thereupon be
2 relieved of any further duties or obligations with respect
3 thereto.

4 (1) The receiver shall, upon approval by the court, pay
5 all claims against the assets of the title insurance company
6 allowed by the court pursuant to subsection (i) of this
7 Section, as well as claims against the assets of insureds and
8 escrow depositors of the title insurance company in accordance
9 with the following priority:

10 (1) All necessary and reasonable expenses of the
11 Director's ~~Secretary's~~ possession and control and of its
12 receivership shall be paid from the assets of the title
13 insurance company.

14 (2) All usual and customary fees charged for services
15 in administering escrows shall be paid from the assets of
16 the individual escrows being administered. If the assets
17 of the individual escrows being administered are
18 insufficient, the fees shall be paid from the assets of
19 the title insurance company.

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

25 (4) Claims by policyholders, beneficiaries, insureds,
26 and escrow depositors of the title insurance company shall

1 be paid from the assets of the insureds and escrow
2 depositors. If there are insufficient assets of the
3 insureds and escrow depositors, claims shall be paid from
4 the assets of the title insurance company.

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

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

12 (7) All other claims of general creditors not falling
13 within any priority under this subsection (1) including
14 claims for taxes and debts due any state or local
15 government which are not secured claims and claims for
16 attorney's fees incurred by the title insurance company in
17 contesting the dissolution shall be paid from the assets
18 of the title insurance company.

19 (8) Proprietary claims asserted by an owner, member,
20 or stockholder of the title insurance company in
21 receivership shall be paid from the assets of the title
22 insurance company.

23 The receiver shall pay all claims of equal priority
24 according to the schedule set out in this subsection, and
25 shall not pay claims of lower priority until all higher
26 priority claims are satisfied. If insufficient assets are

1 available to meet all claims of equal priority, those assets
2 shall be distributed pro rata among those claims. All
3 unclaimed assets of the title insurance company shall be
4 deposited with the receiver to be paid out by him or her when
5 such claims are submitted and allowed by the court.

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

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

18 (o) Whenever the Director ~~Secretary~~ shall have taken
19 possession and control of a title insurance company or a title
20 insurance agent and its assets for the purpose of examination,
21 reorganization, or liquidation through receivership, or
22 whenever the Director ~~Secretary~~ shall have appointed a
23 receiver for a title insurance company or title insurance
24 agent and filed a complaint for the dissolution or winding up
25 of its affairs, and the title insurance company or title
26 insurance agent denies the grounds for such actions, it may at

1 any time within 10 days apply to the Circuit Court of Cook or
2 Sangamon County to enjoin further proceedings in the premises;
3 and the Court shall cite the Director ~~Secretary~~ to show cause
4 why further proceedings should not be enjoined, and if the
5 Court shall find that grounds do not exist, the Court shall
6 make an order enjoining the Director ~~Secretary~~ or any receiver
7 acting under the Director's ~~his~~ direction from all further
8 proceedings on account of the alleged grounds.

9 (Source: P.A. 101-48, eff. 1-1-20.)

10 (215 ILCS 155/21.2)

11 Sec. 21.2. Notice.

12 (a) Notice of any action by the Director ~~Secretary~~ under
13 this Act or regulations or orders promulgated under it shall
14 be made either personally or by registered or certified mail,
15 return receipt requested, and by sending a copy of the notice
16 by telephone facsimile or electronic mail, if known and
17 operating, and if unknown or not operating, then by regular
18 mail. Service by mail shall be deemed completed if the notice
19 is deposited as registered or certified mail in the post
20 office, postage paid, addressed to the last known address
21 specified in the application for the certificate of authority
22 to do business or certificate of registration of the holder or
23 registrant.

24 (b) The Director ~~Secretary~~ shall notify all registered
25 agents of a title insurance company when that title insurance

1 company's certificate of authority is suspended or revoked.

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

3 (215 ILCS 155/22) (from Ch. 73, par. 1422)

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

25 (Source: P.A. 100-22, eff. 1-1-18.)

1 (215 ILCS 155/23) (from Ch. 73, par. 1423)

2 Sec. 23. Violation; penalties.

3 (a) Any violation of any of the provisions of this Act and,
4 beginning January 1, 2013, any violation of any of the
5 provisions of Article 3 of the Residential Real Property
6 Disclosure Act shall constitute a business offense and shall
7 subject the party violating the same to a penalty of \$1000 for
8 each offense.

9 (b) Nothing contained in this Section shall affect the
10 right of the Director ~~Secretary~~ to revoke or suspend a title
11 insurance company's or independent escrowee's certificate of
12 authority or a title insurance agent's registration under any
13 other Section of this Act.

14 (Source: P.A. 97-891, eff. 8-3-12.)

15 Section 20. The Residential Property Disclosure Act is
16 amended by changing Section 70 and by adding Section 71 as
17 follows:

18 (765 ILCS 77/70)

19 Sec. 70. Predatory lending database program.

20 (a) As used in this Article:

21 "Adjustable rate mortgage" or "ARM" means a closed-end
22 mortgage transaction that allows adjustments of the loan
23 interest rate during the first 3 years of the loan term.

1 "Borrower" means a person seeking a mortgage loan.

2 "Broker" means a "broker" or "loan broker", as defined in
3 subsection (p) of Section 1-4 of the Residential Mortgage
4 License Act of 1987.

5 "Closing agent" means an individual assigned by a title
6 insurance company or a broker or originator to ensure that the
7 execution of documents related to the closing of a real estate
8 sale or the refinancing of a real estate loan and the
9 disbursement of closing funds are in conformity with the
10 instructions of the entity financing the transaction.

11 "Counseling" means counseling provided by a counselor
12 employed by a HUD-approved counseling agency to all borrowers.
13 Counseling must be provided in the following manner:

14 (i) in person; or

15 (ii) by remote electronic or telephonic means, with
16 the permission of all borrowers, where the session can be
17 conducted in privacy, the counselor is able to verify the
18 identity of each borrower, and the counseling is
19 documented by the counselor, subject to any rules that may
20 be enacted by the Department.

21 "Counselor" means a counselor employed by a HUD-approved
22 housing counseling agency.

23 "Credit score" means a credit risk score as defined by the
24 Fair Isaac Corporation, or its successor, and reported under
25 such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK
26 SCORE" by one or more of the following credit reporting

1 agencies or their successors: Equifax, Inc., Experian
2 Information Solutions, Inc., and TransUnion LLC. If the
3 borrower's credit report contains credit scores from 2
4 reporting agencies, then the broker or loan originator shall
5 report the lower score. If the borrower's credit report
6 contains credit scores from 3 reporting agencies, then the
7 broker or loan originator shall report the middle score.

8 "Department" means the Department of Insurance ~~Financial~~
9 ~~and Professional Regulation~~.

10 "Exempt person or entity" means that term as it is defined
11 in subsection (d) of Section 1-4 of the Residential Mortgage
12 License Act of 1987.

13 "First-time homebuyer" means a borrower who has not held
14 an ownership interest in residential property.

15 "HUD-approved counseling" or "counseling" means counseling
16 given to a borrower by a counselor employed by a HUD-approved
17 housing counseling agency.

18 "Interest only" means a closed-end loan that permits one
19 or more payments of interest without any reduction of the
20 principal balance of the loan, other than the first payment on
21 the loan.

22 "Lender" means that term as it is defined in subsection
23 (g) of Section 1-4 of the Residential Mortgage License Act of
24 1987.

25 "Licensee" means that term as it is defined in subsection
26 (e) of Section 1-4 of the Residential Mortgage License Act of

1 1987.

2 "Mortgage loan" means that term as it is defined in
3 subsection (f) of Section 1-4 of the Residential Mortgage
4 License Act of 1987.

5 "Negative amortization" means an amortization method under
6 which the outstanding balance may increase at any time over
7 the course of the loan because the regular periodic payment
8 does not cover the full amount of interest due.

9 "Originator" means a "mortgage loan originator" as defined
10 in subsection (jj) of Section 1-4 of the Residential Mortgage
11 License Act of 1987, except an exempt person.

12 "Points and fees" has the meaning ascribed to that term in
13 Section 10 of the High Risk Home Loan Act.

14 "Prepayment penalty" means a charge imposed by a lender
15 under a mortgage note or rider when the loan is paid before the
16 expiration of the term of the loan.

17 "Refinancing" means a loan secured by the borrower's or
18 borrowers' primary residence where the proceeds are not used
19 as purchase money for the residence.

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

1 (a-5) A predatory lending database program shall be
2 established within Cook County. The program shall be
3 administered in accordance with this Article. The inception
4 date of the program shall be July 1, 2008. A predatory lending
5 database program shall be expanded to include Kane, Peoria,
6 and Will counties. The inception date of the expansion of the
7 program as it applies to Kane, Peoria, and Will counties shall
8 be July 1, 2010. Until the inception date, none of the duties,
9 obligations, contingencies, or consequences of or from the
10 program shall be imposed. The program shall apply to all
11 mortgage applications that are governed by this Article and
12 that are made or taken on or after the inception of the
13 program.

14 (b) The database created under this program shall be
15 maintained and administered by the Department. The database
16 shall be designed to allow brokers, originators, counselors,
17 title insurance companies, and closing agents to submit
18 information to the database online. The database shall not be
19 designed to allow those entities to retrieve information from
20 the database, except as otherwise provided in this Article.
21 Information submitted by the broker or originator to the
22 Department may be used to populate the online form submitted
23 by a counselor, title insurance company, or closing agent.

24 (c) Within 10 business days after taking a mortgage
25 application, the broker or originator for any mortgage on
26 residential property within the program area must submit to

1 the predatory lending database all of the information required
2 under Section 72 and any other information required by the
3 Department by rule. Within 7 business days after receipt of
4 the information, the Department shall compare that information
5 to the housing counseling standards in Section 73 and issue to
6 the borrower and the broker or originator a determination of
7 whether counseling is recommended for the borrower. The
8 borrower may not waive counseling. If at any time after
9 submitting the information required under Section 72 the
10 broker or originator (i) changes the terms of the loan or (ii)
11 issues a new commitment to the borrower, then, within 5
12 business days thereafter, the broker or originator shall
13 re-submit all of the information required under Section 72
14 and, within 4 business days after receipt of the information
15 re-submitted by the broker or originator, the Department shall
16 compare that information to the housing counseling standards
17 in Section 73 and shall issue to the borrower and the broker or
18 originator a new determination of whether re-counseling is
19 recommended for the borrower based on the information
20 re-submitted by the broker or originator. The Department shall
21 require re-counseling if the loan terms have been modified to
22 meet another counseling standard in Section 73, or if the
23 broker has increased the interest rate by more than 200 basis
24 points.

25 (d) If the Department recommends counseling for the
26 borrower under subsection (c), then the Department shall

1 notify the borrower of all participating HUD-approved
2 counseling agencies located within the State and, where
3 applicable, nationally HUD-approved counseling agencies, and
4 direct the borrower to interview with a counselor associated
5 with one of those agencies. Within 10 business days after
6 receipt of the notice of HUD-approved counseling agencies, it
7 is the borrower's responsibility to select one of those
8 agencies and shall engage in an interview with a counselor
9 associated with that agency. The borrower must supply all
10 necessary documents, as set forth by the counselor, at least
11 72 hours before the scheduled interview. The selection must
12 take place and the appointment for the interview must be set
13 within 10 business days, although the interview may take place
14 beyond the 10 business day period. Within 7 business days
15 after interviewing the borrower, the counselor must submit to
16 the predatory lending database all of the information required
17 under Section 74 and any other information required by the
18 Department by rule. Reasonable and customary costs not to
19 exceed \$300 associated with counseling provided under the
20 program shall be paid by the broker or originator and shall not
21 be charged back to, or recovered from, the borrower. The
22 Department shall annually calculate to the nearest dollar an
23 adjusted rate for inflation. A counselor shall not recommend
24 or suggest that a borrower contact any specific mortgage
25 origination company, financial institution, or entity that
26 deals in mortgage finance to obtain a loan, another quote, or

1 for any other reason related to the specific mortgage
2 transaction; however, a counselor may suggest that the
3 borrower seek an opinion or a quote from another mortgage
4 origination company, financial institution, or entity that
5 deals in mortgage finance. A counselor or housing counseling
6 agency that in good faith provides counseling shall not be
7 liable to a broker or originator or borrower for civil
8 damages, except for willful or wanton misconduct on the part
9 of the counselor in providing the counseling.

10 (e) The broker or originator and the borrower may not take
11 any legally binding action concerning the loan transaction
12 until the later of the following:

13 (1) the Department issues a determination not to
14 recommend HUD-approved counseling for the borrower in
15 accordance with subsection (c); or

16 (2) the Department issues a determination that
17 HUD-approved counseling is recommended for the borrower
18 and the counselor submits all required information to the
19 database in accordance with subsection (d).

20 (f) Within 10 business days after closing, the title
21 insurance company or closing agent must submit to the
22 predatory lending database all of the information required
23 under Section 76 and any other information required by the
24 Department by rule.

25 (g) The title insurance company or closing agent shall
26 attach to the mortgage a certificate of compliance with the

1 requirements of this Article, as generated by the database. If
2 the transaction is exempt, the title insurance company or
3 closing agent shall attach to the mortgage a certificate of
4 exemption, as generated by the database. Each certificate of
5 compliance or certificate of exemption must contain, at a
6 minimum, one of the borrower's names on the mortgage loan and
7 the property index number for the subject property. If the
8 title insurance company or closing agent fails to attach the
9 certificate of compliance or exemption, whichever is required,
10 then the mortgage is not recordable. In addition, if any lis
11 pendens for a residential mortgage foreclosure is recorded on
12 the property within the program area, a certificate of service
13 must be simultaneously recorded that affirms that a copy of
14 the lis pendens was filed with the Department. A lis pendens
15 filed after July 1, 2016 shall be filed with the Department
16 electronically. If the certificate of service is not recorded,
17 then the lis pendens pertaining to the residential mortgage
18 foreclosure in question is not recordable and is of no force
19 and effect.

20 (h) All information provided to the predatory lending
21 database under the program is confidential and is not subject
22 to disclosure under the Freedom of Information Act, except as
23 otherwise provided in this Article. Information or documents
24 obtained by employees of the Department in the course of
25 maintaining and administering the predatory lending database
26 are deemed confidential. Employees are prohibited from making

1 disclosure of such confidential information or documents. Any
2 request for production of information from the predatory
3 lending database, whether by subpoena, notice, or any other
4 source, shall be referred to the Department ~~of Financial and~~
5 ~~Professional Regulation~~. Any borrower may authorize in writing
6 the release of database information. The Department may use
7 the information in the database without the consent of the
8 borrower: (i) for the purposes of administering and enforcing
9 the program; (ii) to provide relevant information to a
10 counselor providing counseling to a borrower under the
11 program; or (iii) to the appropriate law enforcement agency or
12 the applicable administrative agency if the database
13 information demonstrates criminal, fraudulent, or otherwise
14 illegal activity.

15 (i) Nothing in this Article is intended to prevent a
16 borrower from making his or her own decision as to whether to
17 proceed with a transaction.

18 (j) Any person who violates any provision of this Article
19 commits an unlawful practice within the meaning of the
20 Consumer Fraud and Deceptive Business Practices Act.

21 (j-1) A violation of any provision of this Article by a
22 mortgage banking licensee or licensed mortgage loan originator
23 shall constitute a violation of the Residential Mortgage
24 License Act of 1987.

25 (j-2) A violation of any provision of this Article by a
26 title insurance company, title agent, or escrow agent shall

1 constitute a violation of the Title Insurance Act.

2 (j-3) A violation of any provision of this Article by a
3 housing counselor shall be referred to the Department of
4 Housing and Urban Development.

5 (k) During the existence of the program, the Department
6 shall submit semi-annual reports to the Governor and to the
7 General Assembly by May 1 and November 1 of each year detailing
8 its findings regarding the program. The report shall include,
9 by county, at least the following information for each
10 reporting period:

11 (1) the number of loans registered with the program;

12 (2) the number of borrowers receiving counseling;

13 (3) the number of loans closed;

14 (4) the number of loans requiring counseling for each
15 of the standards set forth in Section 73;

16 (5) the number of loans requiring counseling where the
17 mortgage originator changed the loan terms subsequent to
18 counseling;

19 (6) the number of licensed mortgage brokers and loan
20 originators entering information into the database;

21 (7) the number of investigations based on information
22 obtained from the database, including the number of
23 licensees fined, the number of licenses suspended, and the
24 number of licenses revoked;

25 (8) a summary of the types of non-traditional mortgage
26 products being offered; and

1 (9) a summary of how the Department is actively
2 utilizing the program to combat mortgage fraud.

3 (Source: P.A. 103-1015, eff. 1-1-25.)

4 (765 ILCS 77/71 new)

5 Sec. 71. Transfer of enforcement of Article to the
6 Department of Insurance.

7 (a) On and after the effective date of this amendatory Act
8 of the 104th General Assembly:

9 (1) All powers, duties, rights, and responsibilities
10 of the Department of Financial and Professional Regulation
11 under this Article are transferred to the Department of
12 Insurance.

13 (2) All powers, duties, rights, and responsibilities
14 of the Secretary of Financial and Professional Regulation
15 under this Article are transferred to the Director of
16 Insurance.

17 (3) All books, records, papers, documents, property
18 (real and personal), contracts, causes of action, and
19 pending business of the Department of Financial and
20 Professional Regulation for the purposes of this Article
21 shall be transferred to the Department of Insurance.

22 (4) Any rules of the Department of Financial and
23 Professional Regulation for the purposes of this Article
24 that are in full force on the effective date of this
25 amendatory Act of the 104th General Assembly shall become

1 the rules of the Department of Insurance. This Section
2 does not affect the legality of any such rules in the
3 Illinois Administrative Code.

4 (5) Any proposed rules filed with the Secretary of
5 State by the Department of Financial and Professional
6 Regulation for the purposes of this Article that are
7 pending in the rulemaking process on the effective date of
8 this amendatory Act of the 104th General Assembly, and
9 that pertain to the powers, duties, rights, and
10 responsibilities transferred under this Section, shall be
11 deemed to have been filed by the Department of Insurance.
12 As soon as practicable, the Department of Insurance shall
13 revise and clarify the rules transferred to it under this
14 Section using the procedures for recodification of rules
15 available under the Illinois Administrative Procedure Act,
16 except that existing title, part, and section numbering
17 for the affected rules may be retained. The Department of
18 Insurance may propose and adopt under the Illinois
19 Administrative Procedure Act such other rules of the
20 Department of Financial and Professional Regulation for
21 the purposes of this Article that will now be administered
22 by the Department of Insurance.

23 (b) The status and rights of the employees and the State or
24 its transferring agencies under the Personnel Code, the
25 Illinois Public Labor Relations Act, applicable collective
26 bargaining agreements, or any pension, retirement, or annuity

1 plan shall not be affected by this amendatory Act of the 104th
2 General Assembly.

1	INDEX	
2	Statutes amended in order of appearance	
3	20 ILCS 1205/6	
4	30 ILCS 105/6z-26	
5	215 ILCS 155/3	from Ch. 73, par. 1403
6	215 ILCS 155/3.5 new	
7	215 ILCS 155/4	from Ch. 73, par. 1404
8	215 ILCS 155/4.1	
9	215 ILCS 155/5	from Ch. 73, par. 1405
10	215 ILCS 155/6	from Ch. 73, par. 1406
11	215 ILCS 155/7	from Ch. 73, par. 1407
12	215 ILCS 155/8	from Ch. 73, par. 1408
13	215 ILCS 155/9	from Ch. 73, par. 1409
14	215 ILCS 155/12	from Ch. 73, par. 1412
15	215 ILCS 155/13	from Ch. 73, par. 1413
16	215 ILCS 155/14.1	
17	215 ILCS 155/16	from Ch. 73, par. 1416
18	215 ILCS 155/16.1	
19	215 ILCS 155/17	from Ch. 73, par. 1417
20	215 ILCS 155/17.1	
21	215 ILCS 155/18	from Ch. 73, par. 1418
22	215 ILCS 155/19	from Ch. 73, par. 1419
23	215 ILCS 155/20	from Ch. 73, par. 1420
24	215 ILCS 155/21	from Ch. 73, par. 1421
25	215 ILCS 155/21.1	

1 215 ILCS 155/21.2

2 215 ILCS 155/22 from Ch. 73, par. 1422

3 215 ILCS 155/23 from Ch. 73, par. 1423

4 765 ILCS 77/70

5 765 ILCS 77/71 new