



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3064

Introduced 2/19/2021, by Rep. Camille Y. Lilly

SYNOPSIS AS INTRODUCED:

215 ILCS 155/3	from Ch. 73, par. 1403
215 ILCS 155/5	from Ch. 73, par. 1405
215 ILCS 155/12	from Ch. 73, par. 1412
215 ILCS 155/14	from Ch. 73, par. 1414
215 ILCS 155/14.1	
215 ILCS 155/16	from Ch. 73, par. 1416
215 ILCS 155/18	from Ch. 73, par. 1418
215 ILCS 155/18.2 new	
215 ILCS 155/21	from Ch. 73, par. 1421
215 ILCS 155/23	from Ch. 73, par. 1423
215 ILCS 155/19 rep.	
215 ILCS 155/24 rep.	
215 ILCS 155/25 rep.	

Amends the Title Insurance Act. Provides that it is unlawful for any person, firm, partnership, association, corporation, or other legal entity to act as or hold itself out to be a title insurance agent unless first procuring from the Secretary of Financial and Professional Regulation a certificate of authority. Provides that the Secretary of Financial and Professional Regulation or the Secretary's authorized representative shall have power and authority to compel an independent escrowee's compliance with specified provisions of the Title Insurance Act. Establishes fees for title insurance agents. Provides that every applicant for a certificate of authority that is a firm, partnership, association, corporation, or other legal entity shall designate and name at least one individual who (1) has a financial or other beneficial interest in the licensee and (2) is authorized by at least one title insurance company to determine insurability of title. Establishes requirements for the issuance of certificates of authority to title insurance agents. Changes provisions concerning criminal penalties and injunctive relief for violations and referrals. Makes other changes. Effective immediately, except that the provisions concerning the filing of title insurance rates take effect September 1, 2022.

LRB102 14548 BMS 19901 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 Title Insurance Act is amended by changing
5 Sections 3, 5, 12, 14, 14.1, 16, 18, 21, and 23 and by adding
6 Section 18.2 as follows:

7 (215 ILCS 155/3) (from Ch. 73, par. 1403)

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

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

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

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

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

21 (ii) guaranteeing, warranting, or otherwise
22 insuring the correctness of title searches for all
23 instruments affecting titles to real property, any

1 interest in real property, cooperative units and
2 proprietary leases, and for all liens or charges
3 affecting the same;

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

6 (iv) executing title insurance policies;

7 (v) effecting contracts of reinsurance;

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

9 or

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

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

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

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

26 (1.5) "Title insurance" means insuring, guaranteeing,

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

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

20 (3) "Title insurance agent" means a person, firm,
21 partnership, association, corporation or other legal entity
22 issued a certificate of authority under this Act ~~registered by~~
23 ~~a title insurance company~~ and authorized by a title insurance
24 ~~such~~ company to determine insurability of title in accordance
25 with generally acceptable underwriting rules and standards in
26 reliance on either the public records or a search package

1 prepared from a title plant, or both, and authorized by such
2 title insurance company in addition to do any of the
3 following: act as an escrow agent pursuant to subsections (f),
4 (g), and (h) of Section 16 of this Act, solicit title
5 insurance, collect premiums, or issue title insurance
6 commitments, policies, and endorsements of the title insurance
7 company; provided, however, the term "title insurance agent"
8 shall not include officers and salaried employees of any title
9 insurance company.

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

19 (5) "Associate" is any firm, association, partnership,
20 corporation or other legal entity organized for profit in
21 which a producer of title business is a director, officer, or
22 partner thereof, or owner of a financial interest, as defined
23 herein, in such entity; any legal entity that controls, is
24 controlled by, or is under common control with a producer of
25 title business; and any natural person or legal entity with
26 whom a producer of title business has any agreement,

1 arrangement, or understanding or pursues any course of conduct
2 the purpose of which is to evade the provisions of this Act.

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

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

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

20 (9) "Independent Escrowee" means any firm, person,
21 partnership, association, corporation or other legal entity,
22 other than a title insurance company or a title insurance
23 agent, which receives deposits, in trust, of funds or
24 documents, or both, for the purpose of effecting the sale,
25 transfer, encumbrance or lease of real property to be held by
26 such escrowee until title to the real property that is the

1 subject of the escrow is in a prescribed condition. Federal
2 and State chartered banks, savings and loan associations,
3 credit unions, mortgage bankers, banks or trust companies
4 authorized to do business under the Illinois Corporate
5 Fiduciary Act, licensees under the Consumer Installment Loan
6 Act, real estate brokers licensed pursuant to the Real Estate
7 License Act of 2000, as such Acts are now or hereafter amended,
8 and licensed attorneys when engaged in the attorney-client
9 relationship are exempt from the escrow provisions of this
10 Act. "Independent Escrowee" does not include employees or
11 independent contractors of a title insurance company or title
12 insurance agent authorized by a title insurance company to
13 perform closing, escrow, or settlement services.

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

26 (11) "Department" means the Department of Financial and

1 Professional Regulation.

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

4 (13) "Insured closing letter" or "closing protection
5 letter" means an indemnification or undertaking to a party to
6 a real property transaction, from a principal such as a title
7 insurance company, setting forth in writing the extent of the
8 principal's responsibility for intentional misconduct or
9 errors in closing the real property transaction on the part of
10 a settlement agent, such as a title insurance agent or other
11 settlement service provider, or an indemnification or
12 undertaking given by a title insurance company or an
13 independent escrowee setting forth in writing the extent of
14 the title insurance company's or independent escrowee's
15 responsibility to a party to a real property transaction which
16 indemnifies the party against the intentional misconduct or
17 errors in closing the real property transaction on the part of
18 the title insurance company or independent escrowee and
19 includes protection afforded pursuant to subsections (f), (g),
20 and (h) of Section 16, Section 16.1, subsection (h) of Section
21 17, and Section 17.1 of this Act even if such protection is
22 afforded by contract.

23 (14) "Residential real property" means a building or
24 buildings consisting of one to 4 residential units or a
25 residential condominium unit where at least one of the
26 residential units or condominium units is occupied or intended

1 to be occupied as a residence by the purchaser or borrower, or
2 in the event that the purchaser or borrower is the trustee of a
3 trust, by a beneficiary of that trust.

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

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

13 (215 ILCS 155/5) (from Ch. 73, par. 1405)

14 Sec. 5. Certificate of authority required to engage in
15 activities under this Act.

16 (a) It is unlawful for any company to engage or to continue
17 in the business of title insurance without first procuring
18 from the Secretary a certificate of authority stating that the
19 company has complied with the requirements of Section 4 of
20 this Act. An insurer that transacts any class of insurance
21 other than title insurance anywhere in the United States is
22 not eligible for the issuance of a certificate of authority to
23 transact title insurance in this State nor for a renewal of a
24 certificate of authority.

25 (b) It is unlawful for any person, firm, partnership,

1 association, corporation, or other legal entity to act as or
2 hold itself out to be a title insurance agent unless first
3 procuring from the Secretary a certificate of authority
4 subject to the conditions of subsection (a) of Section 16.

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

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

7 Sec. 12. Examinations; compliance.

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

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

1 ~~the Secretary or his or her authorized agent, then the~~
2 ~~Secretary or his or her authorized agent shall have the power~~
3 ~~and authority to obtain those records directly from the~~
4 ~~registered agent.~~

5 (c) The Secretary or the Secretary's authorized
6 representative shall have power and authority to compel an
7 independent escrowee's compliance with the provisions of this
8 Act pursuant to subsection (f) of Section 17 of this Act.

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

10 (215 ILCS 155/14) (from Ch. 73, par. 1414)

11 Sec. 14. Fees.

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

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

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

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

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

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

23 (b) Each title insurance company shall remit, ~~for all of~~
24 ~~its title insurance agents subject to this Act for filing an~~
25 ~~annual registration of its agents,~~ an amount equal to \$3 for

1 each policy issued by all of its title insurance agents in the
2 immediately preceding calendar year.

3 (c) Every title insurance agent subject to this Act shall
4 pay the following fees:

5 (1) for a resident of the State, filing the original
6 application for a certification of authority and for the
7 certificate of authority, \$80;

8 (2) for a nonresident of the State, filing the
9 original application for a certification of authority and
10 for the certificate of authority, \$120;

11 (3) for a resident and nonresident of the State,
12 filing for renewal of a certificate, \$80; and

13 (4) for a resident and nonresident of the State,
14 filing for reinstatement of a lapsed certificate, \$120.

15 (Source: P.A. 99-104, eff. 1-1-16.)

16 (215 ILCS 155/14.1)

17 Sec. 14.1. Financial Institution Fund. All moneys received
18 by the Department of Financial and Professional Regulation
19 under this Act shall be deposited in the Financial Institution
20 Fund created under Section 6z-26 of the State Finance Act for
21 expenses incurred in administering this Act.

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

23 (215 ILCS 155/16) (from Ch. 73, par. 1416)

24 Sec. 16. Title insurance agents.

1 (a) No person, firm, partnership, association, corporation
2 or other legal entity shall act as or hold itself out to be a
3 title insurance agent unless it has been issued a certificate
4 of authority by ~~duly registered by a title insurance company~~
5 ~~with~~ the Secretary. Every title insurance agent registration
6 before or after the effective date of this amendatory Act of
7 the 102nd General Assembly shall satisfy the requirements for
8 a certificate of authority under this amendatory Act of the
9 102nd General Assembly until January 1 of the calendar year
10 immediately following the adoption of such rules that the
11 Secretary shall adopt as may be necessary for the
12 administration of granting of the certificates of authority
13 for title insurance agents under this amendatory Act of the
14 102nd General Assembly, and until the related application is
15 either approved or disapproved; the continued recognition of
16 such title insurance agent registrations during this period
17 does not relieve title insurance agents and title insurance
18 companies of their other obligations under this Act before the
19 effective date of this amendatory Act of the 102nd General
20 Assembly.

21 (b) Each application for a certificate of authority
22 ~~registration~~ shall be made on a form specified by the
23 Secretary and prepared by each title insurance agent ~~company~~
24 ~~which the agent represents~~. The title insurance agent and
25 company authorizing the agent shall retain the copy of the
26 application and issued certificate of authority ~~forward a copy~~

1 ~~to the Secretary.~~

2 (c) Every applicant for a certificate of authority
3 ~~registration~~, except a firm, partnership, association, limited
4 liability company, or corporation, must be 18 years or more of
5 age.

6 (1) Every applicant for a certificate of authority
7 that is a firm, partnership, association, corporation, or
8 other legal entity shall designate and name at least one
9 individual who (i) has a financial or other beneficial
10 interest in the licensee and (ii) is authorized by at
11 least one title insurance company to determine
12 insurability of title.

13 (2) Included in every application for a certificate of
14 authority ~~registration~~ of a title insurance agent,
15 including a firm, partnership, association, limited
16 liability company, or corporation, shall be an affidavit
17 of the applicant title insurance agent, signed and
18 notarized in front of a notary public, affirming that the
19 applicant and every owner, officer, director, principal,
20 member, or manager of the applicant has never been
21 convicted or pled guilty to any felony or misdemeanor
22 involving a crime of theft or dishonesty or otherwise
23 accurately disclosing any such felony or misdemeanor
24 involving a crime of theft or dishonesty. No person who
25 has had a conviction or pled guilty to any felony or
26 misdemeanor involving theft or dishonesty may be

1 ~~registered by~~ a title insurance agent company without a
2 written notification to the Secretary disclosing the
3 conviction or plea, and no such person may serve as an
4 owner, officer, director, principal, or manager of any
5 ~~registered~~ title insurance agent without the written
6 permission of the Secretary.

7 (3) An applicant for a certificate of authority of a
8 title insurance agent, including a firm, partnership,
9 association, limited liability company, or corporation,
10 shall include an affidavit of the applicant, signed and
11 notarized in front of a notary public, affirming that the
12 applicant is authorized by one or more title insurance
13 companies to determine insurability of title, stating the
14 title insurance company or companies with which it is
15 authorized, and listing the individuals authorized.

16 (4) Every applicant shall obtain and maintain errors
17 and omissions insurance, or its equivalent, in an amount
18 acceptable to the title insurance company authorizing the
19 agent, but in no event in an amount less than \$250,000 per
20 claim and an aggregate limit of \$500,000 with a deductible
21 no greater than \$25,000. A title insurance company shall
22 not provide the insurance directly or indirectly on behalf
23 of a title insurance agent. In the event errors and
24 omissions insurance is unavailable generally, the
25 Department shall adopt rules for alternative methods to
26 comply with this paragraph.

1 (d) A certificate of authority ~~Registration~~ shall be
2 renewed on January 1 every 2 years ~~made annually~~ by a filing
3 with the Secretary; supplemental filings ~~registrations~~ for a
4 new agency agreement with a title insurance company ~~agents~~ to
5 be added between certificate of authority renewal ~~annual~~
6 filings shall be made by the title insurance agent from time to
7 time in the manner provided by the Secretary; certificates of
8 authority ~~registrations~~ shall remain in effect unless revoked
9 or suspended by the Secretary or voluntarily withdrawn by the
10 title insurance agent, ~~registrant~~ or the title insurance agent
11 no longer has any agency agreement with a title insurance
12 company.

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

25 Interest received on funds deposited with the escrow agent
26 in connection with any escrow, settlement, or closing shall be

1 paid to the depositing party unless the instructions provide
2 otherwise.

3 The escrow agent shall maintain separate records of all
4 receipts and disbursements of escrow, settlement, or closing
5 funds.

6 The escrow agent shall comply with any rules adopted by
7 the Secretary pertaining to escrow, settlement, or closing
8 transactions.

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

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

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

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

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

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

19 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15;
20 99-104, eff. 1-1-16.)

21 (215 ILCS 155/18) (from Ch. 73, par. 1418)

22 Sec. 18. Disclosure of financial interests ~~No referral~~
23 ~~payments; kickbacks.~~

24 (a) Application of this Section is limited to residential
25 properties of 4 or fewer units, at least one of which units is

1 occupied or to be occupied by an owner, legal or beneficial.

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

20 (c) Each title insurance company, independent escrowee,
21 and title insurance agent shall file with the Secretary, on
22 forms prescribed by the Secretary, reports setting forth the
23 names and addresses of those persons, if any, who have had a
24 financial interest in the title insurance company, independent
25 escrowee, or title insurance agent during the calendar year,
26 who are known or reasonably believed by the title insurance

1 company, independent escrowee, or title insurance agent to be
2 producers of title business or associates of producers.

3 (1) Each title insurance company and independent
4 escrowee shall file the report required under this
5 subsection with its application for a certificate of
6 authority and at any time there is a change in the
7 information provided in the last report.

8 (2) Each title insurance agent shall file the report
9 required under this subsection with its title insurance
10 company for inclusion with its application for
11 registration and at any time there is a change in the
12 information provided in its last report.

13 (3) Each title insurance company, independent
14 escrowee, or title insurance agent doing business on the
15 effective date of this Act shall file the report required
16 under this subsection within 90 days after such effective
17 date.

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

19 (215 ILCS 155/18.2 new)

20 Sec. 18.2. Rate and service fee filings.

21 (a) Rate and service fee filing requirements.

22 (1) Every title insurance company shall file with the
23 Secretary every manual of classifications, rules, plans,
24 forms, and schedules of fees and every modification of any
25 of the foregoing relating to the rates that it proposes to

1 use. Every such filing shall state the proposed effective
2 date and shall indicate the character and extent of the
3 coverage contemplated. Every title insurance company and
4 independent escrowee shall file with the Secretary the
5 specification of services and schedule of fees for each
6 fee intended to be charged to the parties to a transaction
7 pursuant to paragraph (5) of subsection (k) of this
8 Section.

9 (2) A title insurance company may satisfy its
10 obligations to make such filings by becoming a member of,
11 or a subscriber to, a licensed rating organization that
12 makes such filings and by authorizing the Secretary to
13 accept such filings on its behalf.

14 (3) The Secretary shall make such review of the
15 filings as may be necessary to carry out the provisions of
16 this Act and either approve or disapprove a filing or any
17 part of a filing, including the proposed effective date.

18 (4) Subject to the provisions of paragraphs (5) and
19 (6) and either approval or disapproval of the Secretary,
20 each filing shall be on file for a period of 30 days before
21 it can become effective only by approval of the Secretary.
22 The Secretary may, upon written notice to the person
23 making the filing within the 30-day period, extend the
24 period no more than 30 days to enable the Secretary to
25 complete the review of the filing. Further extensions of
26 the waiting period may be made with the consent of the

1 title insurance company or rating organization making the
2 filing. Upon written application by the title insurance
3 company or rating organization making the filing, the
4 Secretary may authorize a filing or any part of a filing to
5 become effective before the expiration of the waiting
6 period or any extension.

7 (5) When the Secretary finds that any rate for a
8 particular kind or class of risk cannot practicably be
9 filed before it is used, or any contract or kind of title
10 insurance, by reason of rarity or peculiar circumstances,
11 does not lend itself to advance determination and filing
12 of rates, the Secretary may permit the rates to be used
13 without a previous filing and waiting period, and such
14 rates can be effective only by approval of the Secretary.

15 (6) A rate in excess of a filing may be used on any
16 specific risk upon the written consent of the insured,
17 filed with the Secretary, explaining the applicability of
18 the rate to the specific risk; the rate becomes effective
19 when the consent is filed.

20 (b) Justification for rates. A rate filing shall be
21 accompanied by a statement of the title insurance company or
22 rating organization making the filing setting forth the basis
23 upon which the rate was fixed and the fees are to be computed.
24 Any filing may be justified by:

25 (1) the experience or judgment of the title insurance
26 company or rating organization making the filing;

1 (2) the experience of other title insurance companies
2 or rating organizations; or

3 (3) any other factors that the title insurance company
4 or rating organization deems relevant.

5 (c) Making of rates.

6 (1) In making rates, due consideration shall be given
7 to past and prospective loss experience, to exposure to
8 loss, to underwriting practice and judgment, to the extent
9 appropriate, to past and prospective expenses, the
10 expenses incurred by title insurance companies, to a
11 reasonable margin for profit and contingencies, and to all
12 other relevant factors both within and outside of this
13 State.

14 (2) Rates shall not be inadequate or unfairly
15 discriminatory, nor shall rates be excessive; that is,
16 such as to permit title insurance companies to earn a
17 greater profit, after payment of all taxes upon all
18 income, than is necessary to enable them to earn over the
19 years sufficient amounts to pay their actual expenses and
20 losses arising in the conduct of their title insurance
21 business, including the actual costs of maintaining a
22 title plant, plus a reasonable profit.

23 (3) In ascertaining the estimated future earnings of
24 title insurance companies, the Secretary shall utilize a
25 properly weighted cross section of title insurance
26 companies operating in this State representative of the

1 average of normally efficiently operated title insurance
2 companies including on a weighted basis, both title
3 insurance companies having their own title plants, and
4 those not operating upon the title plant system. In
5 ascertaining what is a reasonable profit after payment of
6 all taxes on such income, the Secretary shall give due
7 consideration to the following matters:

8 (A) the average rates of profit after payment of
9 taxes on all income earned by other industry
10 generally;

11 (B) the desirability for stability of rate
12 structure;

13 (C) the necessity of insuring through growth in
14 assets in times of high business activity, the
15 financial solvency of title insurance companies in
16 times of economic depression; and

17 (D) The necessity for earning sufficient dividends
18 on the stock of title insurance companies to induce
19 capital to be invested in title insurance companies.

20 (4) The systems of expense provisions and the amount
21 of expense charged against each class of contract or
22 policy may vary between title insurance companies. Rates
23 may, in the discretion of any title insurance company, be
24 less than the cost of performing the work in the case of
25 smaller insurances, and the excess may be charged against
26 the larger insurances without rendering the rates unfairly

1 discriminatory.

2 (d) Disapproval of filings. If the Secretary finds that
3 the filing or a part of the filing does not meet the
4 requirements of this Act, the Secretary shall issue an order
5 specifying in what respects it fails to meet the requirements
6 of this Act. If the filing or part of the filing already has
7 become effective, the order shall also state when, within a
8 reasonable period, such filing or part shall be deemed no
9 longer effective. A title insurance company or rating
10 organization shall have the right at any time to withdraw a
11 filing or a part of the filing, subject to the provisions of
12 subsection (f) of this Section regarding deviations. Copies of
13 the order shall be sent to every such title insurance company
14 and rating organization. The order shall not affect any
15 contract or policy made or issued prior to the expiration of
16 the period set forth in the order.

17 (e) Rating organizations.

18 (1) A corporation, an unincorporated association, a
19 partnership, or an individual, whether located within or
20 outside this State, may make application to the Secretary
21 for a license as a rating organization for title insurance
22 companies.

23 (A) An entity seeking a license as a rating
24 organization shall file:

25 (i) a copy of its constitution, its articles
26 of agreement or association or its certificate of

1 incorporation, and of its bylaws, rules, and
2 regulations governing the conduct of its business;

3 (ii) a list of its members and subscribers;

4 (iii) the name and address of a resident of
5 this State upon whom notices or orders of the
6 Secretary or process affecting such rating
7 organization may be served; and

8 (iv) a statement of its qualifications as a
9 rating organization.

10 (B) If the Secretary finds that the applicant is
11 competent, trustworthy, and otherwise qualified to act
12 as a rating organization, and that its constitution,
13 articles of agreement or association or certificate of
14 incorporation, and its bylaws, rules, and regulations
15 governing the conduct of its business conforms to the
16 requirements of law, the Secretary shall issue a
17 license authorizing the applicant to act as a rating
18 organization for title insurance. Every such
19 application shall be granted or denied in whole or in
20 part by the Secretary within 60 days after the date of
21 its filing. Licenses issued under this Section shall
22 remain in effect for 3 years unless sooner suspended
23 or revoked by the Secretary or withdrawn by the
24 licensee. The fee for the license shall be \$25.
25 Licenses issued under this Section may be suspended or
26 revoked by the Secretary, after hearing upon notice,

1 in the event the rating organization ceases to meet
2 the requirements of this subsection.

3 (C) Every rating organization shall notify the
4 Secretary promptly of every change in:

5 (i) its constitution, its articles of
6 agreement or association or its certificate of
7 incorporation, and its bylaws, rules, and
8 regulations governing the conduct of its business;

9 (ii) its list of members and subscribers; and

10 (iii) the name and address of the resident of
11 this State designated by it upon whom notices or
12 orders of the Secretary or process affecting such
13 rating organization may be served.

14 (2) Subject to rules adopted by the Secretary, each
15 rating organization shall permit any title insurance
16 company not a member to be a subscriber to its rating
17 services. Each rating organization shall furnish its
18 rating services without discrimination to its members and
19 subscribers. The furnishing of rating services without
20 discrimination to its members and subscribers, or the
21 refusal of any rating organization to admit a title
22 insurance company as a subscriber, shall, at the request
23 of any subscriber or any such title insurance company, be
24 reviewed by the Secretary at a hearing held upon at least
25 10 days' written notice to such rating organization and to
26 such subscriber or title insurance company. If the

1 Secretary finds that the actions of the rating
2 organization were discriminatory, the Secretary shall
3 order that such actions cease. If the rating organization
4 fails to grant or reject an application of a title
5 insurance company for subscribership within 30 days after
6 it was made, the title insurance company may request a
7 review by the Secretary as if the application had been
8 rejected. If the Secretary finds that the title insurance
9 company has been refused admittance to the rating
10 organization as a subscriber without justification, the
11 Secretary shall order the rating organization to admit the
12 title insurance company as a subscriber. If the Secretary
13 finds that the action of the rating organization was
14 justified, the Secretary shall make an order affirming its
15 action.

16 (3) Cooperation among rating organizations, or among
17 rating organizations and title insurance companies, and
18 concert of action among title insurance companies under
19 the same general management and control in rate making or
20 in other matters within the scope of this Act is hereby
21 authorized, provided that the filings are subject to all
22 the provisions of this Act that are applicable to filings
23 generally. The Secretary may review such activities and
24 practices and if, after a hearing, the Secretary finds
25 that any such activity or practice is unfair or
26 unreasonable or otherwise inconsistent with the provisions

1 of this Act, the Secretary may issue a written order
2 specifying in what respects such activity or practice is
3 unfair or unreasonable or otherwise inconsistent with the
4 provisions of this Act and requiring the discontinuance of
5 such activity or practice.

6 (f) Deviations. Every member of or subscriber to a rating
7 organization shall adhere to the filings made on its behalf by
8 such organization, except that any title insurance company
9 that is a member of or subscriber to a rating organization may
10 file with the Secretary a decrease or increase to be applied to
11 any or all elements of the fees produced by the rating system
12 so filed for a class of title insurance that is found by the
13 Secretary to be a proper rating unit for the application of
14 such uniform decrease or increase, or to be applied to the
15 rates for a particular area. Such deviation filing shall
16 specify the basis for the modification and shall be
17 accompanied by the data or historical pattern upon which the
18 applicant relies. A copy of the filing and data shall be sent
19 simultaneously to such rating organization. Any such deviation
20 filing shall be on file for a waiting period of 30 days before
21 it becomes effective. The Secretary shall make such review of
22 the deviation filing as may be necessary to carry out the
23 provisions of this Act, and either approve or disapprove the
24 filing or any part of the filing, including the proposed
25 effective date. Extension of the waiting period may be made in
26 the same manner that the period is extended in the case of rate

1 filings. Upon written application of the person making the
2 filing, the Secretary may authorize a deviation filing or any
3 part of the filing to become effective before the expiration
4 of the waiting period or any extension. Deviation filings
5 shall be subject to the provisions of subsection (d) of this
6 Section. Each deviation shall be effective for at least one
7 year after the date such deviation is approved unless
8 terminated sooner with the approval of the Secretary, or in
9 accordance with the provisions of subsection (d) of this
10 Section.

11 (g) Examinations of rating organizations. The Secretary
12 shall, at least once in 5 years, make or cause to be made an
13 examination of a rating organization licensed under this Act
14 in this State. The reasonable costs of the examination shall
15 be paid by the rating organization examined upon presentation
16 to it of a detailed account of such costs. The officers,
17 managers, agents, and employees of the rating organization may
18 be examined at any time under oath and shall exhibit all books,
19 records, accounts, documents, or agreements governing its
20 method of operation. The Secretary shall furnish 2 copies of
21 the examination report to the organization examined and shall
22 notify such organization that it may, within 20 days, request
23 a hearing on the report or on any facts or recommendations
24 contained in the report. Before filing the report for public
25 inspection, the Secretary shall grant a hearing to the
26 organization examined. The report of the examination, when

1 filed for public inspection, shall be admissible in evidence
2 in any action or proceeding brought by the Secretary against
3 the organization examined, or its officers or agents, and
4 shall be prima facie evidence of facts stated in the report.
5 The Secretary may withhold the report of the examination from
6 public inspection for such time as the Secretary may deem
7 proper. In lieu of the examination, the Secretary may accept
8 the report of an examination made by the title insurance
9 supervisory official of another state pursuant to the laws of
10 that state.

11 (h) Rate administration.

12 (1) The Secretary shall adopt reasonable rules and
13 statistical plans, reasonably adapted to each of the
14 rating systems on file with the Secretary, which may be
15 modified from time to time, and which shall be used by each
16 title insurance company in the recording and reporting of
17 the composition of its business, its loss and countrywide
18 expense experience and those of its title insurance
19 underwriters in order that the experience of all title
20 insurance companies may be made available, at least
21 annually, in such form and detail as may be necessary to
22 aid the Secretary in determining whether rating systems
23 comply with the standards set forth in this Act. The rules
24 and plans may also provide for the recording and reporting
25 of expense experience items that are specially applicable
26 to this State and are not susceptible of determination by

1 a prorating of countrywide expense experience. In adopting
2 the rules and plans, the Secretary shall give due
3 consideration to the rating systems on file with the
4 Secretary, and in order that the rules and plans may be as
5 uniform as is practicable among the several states, to the
6 rules and to form of the plans used for such rating systems
7 in other states. The rules and plans shall not place an
8 unreasonable burden of expense on any title insurance
9 company. No title insurance company shall be required to
10 record or report its expense and loss experience on a
11 classification basis that is inconsistent with the rating
12 system filed by it, nor shall any title insurance company
13 be required to report its experience to any agency of
14 which it is not a member or subscriber. The Secretary may
15 designate one or more rating organizations or other
16 agencies to assist the Secretary in gathering such
17 experience and making compilations, and such compilations
18 shall be made available, subject to reasonable rules
19 adopted by the Secretary, to title insurance companies and
20 rating organizations.

21 (2) Reasonable rules and plans may be adopted by the
22 Secretary for the interchange of data necessary for the
23 application of rating plans.

24 (3) In order to further uniform administration of rate
25 regulatory laws, the Secretary and every title insurance
26 company and rating organization may exchange information

1 and experience data with title insurance supervisory
2 officials, title insurance companies, and title insurance
3 rating organizations in other states, and may consult with
4 them with respect to rate making and the application of
5 rating systems.

6 (4) In addition to any powers expressly enumerated in
7 this Act, the Secretary shall have full power and
8 authority, and it shall be their duty, to enforce and
9 carry out by rules, orders, or otherwise the provisions of
10 this Act and the full intent. The Secretary may adopt
11 rules consistent with this Act as may be necessary or
12 proper in the exercise of his or her powers or for the
13 performance of his or her duties under this Act.

14 (i) False or misleading information. No person or
15 organization shall willfully withhold information from or
16 knowingly give false or misleading information to the
17 Secretary, any statistical agency designated by the Secretary,
18 any rating organization, or any title insurance company that
19 will affect the rates or fees chargeable under this Act.

20 (j) Penalties.

21 (1) The Secretary may, if the Secretary finds that any
22 person or organization has violated any provision of this
23 Section, impose a penalty of not more than \$500 for each
24 such violation, but if the Secretary finds such violation
25 to be willful, the Secretary may impose a penalty of not
26 more than \$5,000 for each such violation. Such penalties

1 may be in addition to any other penalty provided by law.

2 (2) The Secretary may suspend the license of a rating
3 organization or the certificate of authority of a title
4 insurance company that fails to comply with an order of
5 the Secretary within the time limited by such order, or
6 any extension that the Secretary may grant. The Secretary
7 shall not suspend the license of any rating organization
8 or the certificate of authority of a title insurance
9 company for failure to comply with an order until the time
10 prescribed for an appeal has expired or, if an appeal has
11 been taken, until such order has been affirmed. The
12 Secretary may determine when a suspension of license shall
13 become effective, and it shall remain in effect for the
14 period fixed by the Secretary, unless the Secretary
15 modifies or rescinds the suspension, or until the order
16 upon which the suspension is based is modified, rescinded,
17 or reversed.

18 (3) No penalty shall be imposed and no license or
19 certificate of authority shall be suspended or revoked
20 pursuant to this Section except upon a written order of
21 the Secretary stating his or her findings made after a
22 hearing held upon not less than 10 days' written notice to
23 the holder specifying the alleged violation.

24 (4) All hearings provided for in this Section shall be
25 conducted, and the decision of the Secretary on the issue
26 or filing involved shall be rendered, in accordance with

1 the Administrative Review Law.

2 (k) In all circumstances, whether involving rates filed by
3 a rating organization or title insurance company:

4 (1) separate filings shall be provided for the 2
5 following geographic zones:

6 (A) Zone 1 comprising the counties of Cook, Lake,
7 DuPage, McHenry, Kane, Will, Grundy, and Kendall; and

8 (B) Zone 2 comprising all other counties within
9 the State.

10 The Secretary shall submit a report to the Governor
11 and General Assembly no later than January 1, 2025 as to
12 whether multiple zones are justified based on differences
13 in costs between the zones.

14 (2) Rates shall be separated into classes based on
15 monetary insurance ranges without distinction of
16 commercial or residential use of the property.

17 (3) From the owner's policy premium, loan policy
18 premium, and residential real property endorsement
19 charges, which does not include closing protection letter
20 charges, a title agent shall retain 80% and remit 20% to a
21 title insurance company if services are performed by the
22 title insurance agent to at least (i) determine
23 insurability of title, which includes title examination
24 and title clearance, and (ii) issue title insurance
25 commitments, policies, and endorsements. For endorsement
26 charges that are not for residential real property as

1 defined in Section 3 of this Act, which does not include
2 closing protection letter charges, a title agent shall
3 retain 80% and remit 20% to a title insurance company
4 provided the title agent is authorized pursuant to its
5 agency contract to issue the endorsement and completes the
6 work necessary to issue the endorsement. If the title
7 agent is not authorized pursuant to its agency agreement
8 to issue the endorsement and does not complete the work
9 necessary to issue the endorsement, the title agent shall
10 retain 0% and remit 100% of the charge to a title insurance
11 company.

12 (4) Any fees charged to the parties to the transaction
13 other than the owner's policy premium, loan policy
14 premium, and endorsement charges shall not be retained or
15 remitted between a title insurance company and title
16 insurance agent, or with any other entity or individual,
17 unless the charges are being retained or remitted in an
18 amount directly related to services actually performed.

19 (5) Subject to all other provisions of this Section
20 regarding rate filing requirements, a filing shall also
21 include a specification of services to be performed and
22 schedule of fees for each fee intended to be charged to the
23 parties to the transaction, which includes, but is not
24 limited to, closing fees, escrow fees, settlement fees,
25 closing protection letter fees subject to Section 16.1 of
26 this Act, and like charges, and is applicable to services

1 provided by an independent escrowee, which must similarly
2 file a specification of services and schedule of fees with
3 the Secretary.

4 (215 ILCS 155/21) (from Ch. 73, par. 1421)

5 Sec. 21. Regulatory action.

6 (a) The Secretary may refuse to grant, and may suspend or
7 revoke, any certificate of authority, registration, or license
8 issued pursuant to this Act or may impose a fine for a
9 violation of this Act if he determines that the holder of or
10 applicant for such certificate, registration, or license:

11 (1) has intentionally made a material misstatement or
12 fraudulent misrepresentation in relation to a matter
13 covered by this Act;

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

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

20 (4) has materially misrepresented the terms or
21 conditions of contracts or agreements to which it is a
22 party;

23 (5) has paid any commissions, discounts or any part of
24 its premiums, fees or other charges to any person in
25 violation of any State or federal law or regulations or

1 opinion letters issued under the federal Real Estate
2 Settlement Procedures Act of 1974;

3 (5.1) has accepted or referred a title order or
4 performed title services with knowledge that the order was
5 placed in exchange for the express or implicit promise
6 that a consumer has been or will be referred to that
7 provider for services;

8 (5.2) has given or accepted any portion of any charge
9 made or received for the rendering of a real estate
10 settlement service in connection with a transaction other
11 than for services actually performed;

12 (5.3) has disbursed funds prior to the actual delivery
13 of funds acceptable to the closing and settlement services
14 agent;

15 (5.4) has disbursed of closing and settlement services
16 funds before all necessary conditions of the transaction
17 have been met;

18 (5.5) has paid for, furnished or offered to pay for or
19 furnish any reward or compensation for any past, present,
20 or future title insurance business or closing and
21 settlement services or any other title business,
22 including, but not limited to, the payment of a fee to an
23 attorney for the referral of title business;

24 (5.6) has paid or offered to pay any fee to a producer
25 of title business for making an inspection or appraisal of
26 property;

1 (5.7) has received securities of the title insurance
2 company, title insurance agent, or independent escrowee at
3 prices below the normal market price, or bonds or
4 debentures that guarantee a higher than normal interest
5 rate, whether or not the consummation of the transaction
6 is directly or indirectly related to the number of closing
7 and settlement services or title orders coming to the
8 title insurance company, title insurance agent or
9 independent escrowee through the efforts of that person;

10 (5.8) has furnished to any producer of title business
11 or associate of a producer reports containing publicly
12 recorded information, appraisals, estimates of income
13 production potential, information kits, or similar
14 packages containing information about one or more parcels
15 of real property helpful to any producer of title business
16 without making a charge that is commensurate with the
17 actual cost of the work performed and the material
18 furnished; Additionally:

19 (A) There must be a written service agreement
20 between a title agent and any entity providing any
21 closing, title, or ancillary related services on
22 behalf of a title agent. Pursuant to this written
23 service agreement, a service fee must be charged to
24 the title agent and paid by the title agent to the
25 service provider. The service fee charge is in
26 addition to any search fee charged to the title agent

1 and cannot be added on to the charges to the seller,
2 buyer, borrower, or lender. The charge for a service
3 fee shall be no less than \$350; and

4 (B) Pursuant to an agency agreement or service
5 agreement, the cost of searches procured on behalf of
6 the title agent must be charged to the title agent and
7 paid by the title agent to the provider of such
8 searches in an amount commensurate with the actual
9 cost of the work performed and the material furnished.
10 The search fee charge is in addition to any service fee
11 charged to the title agent and cannot be added on to
12 the charges to the seller, buyer, borrower, or lender.

13 (5.9) has made or guaranteed or has offered to make or
14 guarantee, either directly or indirectly, any loan to any
15 producer of title business or associate of a producer with
16 terms more favorable than otherwise available to the
17 producer;

18 (5.10) has guaranteed, or offered to guarantee the
19 proper performance of closing and settlement services or
20 undertakings that are to be performed by any producer of
21 title business, except as authorized pursuant to Sections
22 16 and 16.1 of this Act;

23 (5.11) has provided, or offered to provide, either
24 directly or indirectly, a compensating balance or deposit
25 in a lending institution either for the express or implied
26 purpose of influencing the placement or channeling of

1 title insurance business by the lending institution; this
2 provision does not prohibit the maintenance by a title
3 insurance company, title agent, or independent escrowee of
4 demand deposits or escrow deposits that are reasonably
5 necessary for use in the ordinary course of the business
6 of the title insurance company, title agent, or
7 independent escrowee;

8 (5.12) has paid for or offered to pay for the fees or
9 charges of an outside professional, such as an attorney,
10 engineer, appraiser, or surveyor, whose services are
11 required by any producer of title business to structure or
12 complete a particular transaction;

13 (5.13) has provided or offered to provide non-title
14 services, such as computerized bookkeeping, forms
15 management, computer programming, or any similar benefit,
16 without a charge that is commensurate with the actual cost
17 to any producer of title business or to any associate of a
18 producer of title business;

19 (5.14) has furnished or offered to furnish all or any
20 part of the time or productive effort of any employee of
21 the title insurance company, title insurance agent, or
22 independent escrowee, such as office manager, escrow
23 officer, secretary, clerk, or messenger, to any producer
24 of the title business or associate of a producer of title
25 business;

26 (5.15) has paid for or offered to pay for all or any

1 part of the salary of an employee of any producer of title
2 business;

3 (5.16) has paid for or offered to pay for the salary or
4 any part of the salary of a relative of any producer of
5 title business if that payment is in excess of the
6 reasonable value of work performed by the relative on
7 behalf of the title insurance company, title insurance
8 agent or independent escrowee;

9 (5.17) has paid for or offered to pay for services by
10 any producer of title business that are ordinarily to be
11 performed by the producer of title business in his or her
12 licensed capacity as a real estate or mortgage broker or
13 salesman or agent;

14 (5.18) has furnished or offered to furnish, or paid
15 for or offered to pay for, furniture, office supplies,
16 telephones, facsimile machines, equipment, or automobiles
17 to any producer of title business, or has paid for or
18 offered to pay for any portion of the cost of renting,
19 leasing, operating or maintaining any of these items;

20 (5.19) has paid for, furnished, or waived, or offered
21 to pay for, furnish, or waive, all or any part of the rent
22 for space occupied by any producer of title business;

23 (5.20) has rented or offered to rent space from any
24 producer of title business, regardless of the purpose, at
25 a rent that is excessive when compared with rents for
26 comparable space in the geographic area, or has paid or

1 offered to pay rent based in whole or in part on the volume
2 of business generated by any producer of title business;

3 (5.21) has paid for or offered to pay for gifts,
4 vacations, business trips, convention expenses, travel
5 expenses, membership fees, registration fees, lodging, or
6 meals on behalf of a producer of title insurance, directly
7 or indirectly, or supplied letters of credit, credit
8 cards, or any such benefits;

9 (5.22) has paid for or offered to pay for the
10 cancellation fee for a title report or other fee on behalf
11 of any producer of title business either before or after
12 inducing the producer of title business to cancel an order
13 with another title insurance company, title insurance
14 agent, or independent escrowee;

15 (5.23) has paid for, furnished, or offered to pay for
16 or furnish any business form to any producer of title
17 business, other than a form regularly used in the conduct
18 of the title insurance company's business, that is
19 furnished for the convenience of the title insurance
20 company and does not constitute a direct monetary benefit
21 to any producer of title business;

22 (5.24) has given trading stamps, cash redemption
23 coupons, or similar items to any producer of title
24 business;

25 (6) has failed to comply with the deposit and reserve
26 requirements of this Act or any other requirements of this

1 Act;

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

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

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

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

25 (11) has knowingly and willfully made any substantial
26 misrepresentation or untruthful advertising;

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

3 (13) has knowingly failed to account for or remit any
4 money or documents coming into the possession of a title
5 insurance company, title insurance agent, or independent
6 escrowee that belong to others;

7 (14) has engaged in dishonorable, unethical, or
8 unprofessional conduct of a character likely to deceive,
9 defraud, or harm the public;

10 (15) has violated the terms of a disciplinary order
11 issued by the Department;

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

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

24 (a-1) Nothing in subsection (a) shall be construed as
25 prohibiting:

26 (1) publishing or printing and disseminating any

1 educational information, notwithstanding that the
2 information may be of benefit to a producer of title
3 business;

4 (2) distributing information, whether printed or oral,
5 advertising novelties, and gift items not to exceed \$25 in
6 value that bear the name of the giver (but not the name of
7 the recipient) to producers of title business;

8 (3) providing reasonable promotional and educational
9 activities that are not conditioned on the referral of
10 business and that do not involve the defraying of expenses
11 that otherwise would be incurred by persons in a position
12 to refer settlement services or business incident to those
13 services, such as a reception by a title company, seminars
14 on title matters offered to professionals, furnishing
15 property descriptions and names of record owners without
16 charge to lenders, real estate brokers, attorneys, or
17 others, or distribution of calendars and other promotional
18 material that do not exceed \$25 in value;

19 (4) the payment of a fee:

20 (A) that bears a reasonable relationship to the
21 value of the services rendered or performed:

22 (i) by any person or party to attorneys at law
23 for services actually rendered;

24 (ii) by a title company to its duly appointed
25 agent for services actually performed in the
26 issuance of a policy of title insurance; or

1 (iii) by a lender to its duly appointed agent
2 for services actually performed in the making of a
3 loan; and

4 (B) to a settlement service provider for services
5 outside of the normal scope of that provider's
6 services to the parties to the transaction;

7 (5) the payment of a bona fide salary or compensation
8 or other payment for goods or facilities actually
9 furnished or for services actually performed, so long as
10 the salary, compensation, or other payment bears a
11 reasonable relationship to the value of the services,
12 goods, or facilities;

13 (6) proportionate returns on an ownership or franchise
14 interest;

15 (7) ordinary and customary business entertainment or
16 promotional activities with reasonable frequency not to
17 exceed \$100 in value per person, per event by title
18 insurance companies, title insurance agents, or
19 independent escrowees that are not directly or indirectly
20 consideration as an inducement or compensation for the
21 referral of title business or for the referral of any
22 escrow or other service from a title insurance company,
23 title insurance agent, or independent escrowee.

24 (b) In every case where a registration or certificate is
25 suspended or revoked, or an application for a registration or
26 certificate or renewal thereof is refused, the Secretary shall

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

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

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

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

1 days, a formal hearing thereon. In the event a hearing is
2 requested, the order shall remain temporary until a final
3 order is entered pursuant to such hearing.

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

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

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

26 The Secretary may issue the cease and desist order without

1 notice and before a hearing.

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

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

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

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

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

20 (215 ILCS 155/23) (from Ch. 73, par. 1423)

21 Sec. 23. Violation; penalties; actual damages; injunctive
22 relief.

23 (a) Any violation of any of the provisions of this Act and,
24 beginning January 1, 2013, any violation of any of the
25 provisions of Article 3 of the Residential Real Property

1 Disclosure Act shall constitute a business offense and shall
2 subject the party violating the same to a penalty of \$1000 for
3 each offense.

4 (b) A violation of paragraphs (5.1) through (5.24) of
5 subsection (a) of Section 21 is a Class A misdemeanor.

6 (c) A person who violates the prohibitions or limitations
7 of subsection (a) of Section 21 shall be liable to the person
8 or persons charged for the settlement service involved in the
9 violation for actual damages.

10 (d) A title insurance company, a title insurance agent, or
11 an independent escrowee who violates the prohibitions or
12 limitations of subsection (a) of Section 21 shall be subject
13 to injunctive relief. If a permanent injunction is granted,
14 the court may award actual damages. Reasonable attorney's fees
15 and costs may be awarded to the prevailing party.

16 (e) ~~(b)~~ Nothing contained in this Section shall affect the
17 right of the Secretary to revoke or suspend a title insurance
18 company's, title insurance agent's, or independent escrowee's
19 certificate of authority ~~or a title insurance agent's~~
20 ~~registration~~ under any other Section of this Act.

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

22 (215 ILCS 155/19 rep.)

23 (215 ILCS 155/24 rep.)

24 (215 ILCS 155/25 rep.)

25 Section 10. The Title Insurance Act is amended by

1 repealing Sections 19, 24, and 25.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law, except that Section 18.2 of the Title Insurance
4 Act takes effect September 1, 2022.