



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2449

Introduced 2/15/2023, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

215 ILCS 155/3	from Ch. 73, par. 1403
215 ILCS 155/15.2 new	
215 ILCS 155/16	from Ch. 73, par. 1416
215 ILCS 155/16.2 new	
215 ILCS 155/17.2 new	

Amends the Title Insurance Act. Provides that the amendatory Act may be referred to as the Title Insurance Reform Act of 2023. Provides that no person, firm, partnership, association, corporation or other legal entity shall act as or hold itself out to be a title insurance agent without first procuring a certificate of authority from the Secretary of Financial and Professional Regulation (rather than unless duly registered by a title insurance company with the Secretary). Provides that a certificate of authority shall remain in effect unless revoked or suspended by the Secretary or voluntarily withdrawn by the holder, or when the holder of the certificate of authority is no longer authorized as a title insurance agent of a title insurance company. Provides that every applicant that is not duly registered as a title insurance agent on the effective date of the amendatory Act shall comply with specified requirements. Provides that the Secretary shall maintain a database of title insurance agents in good standing on a publicly accessible website that any person may use to verify the authority of a particular title insurance agent. Sets forth duties applicable to transactions involving residential real property for title insurance companies, title insurance agents, and independent escrowees. Effective immediately.

LRB103 25293 BMS 51638 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 1. This Act may be referred to as the Title
5 Insurance Reform Act of 2023.

6 Section 5. The Title Insurance Act is amended by changing
7 Sections 3 and 16 and by adding Sections 15.2, 16.2, and 17.2
8 as follows:

9 (215 ILCS 155/3) (from Ch. 73, par. 1403)

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

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

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

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

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

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

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

9 (iv) executing title insurance policies;

10 (v) effecting contracts of reinsurance;

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

12 or

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

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

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

23 (E) Doing or proposing to do any business
24 substantially equivalent to any of the activities listed
25 in this subsection, provided that the preparation of an
26 attorney's opinion of title pursuant to paragraph (1)(C)

1 is not intended to be within the definition of "title
2 insurance business" or "business of title insurance".

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

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

23 (3) "Title insurance agent" means a person, firm,
24 partnership, association, corporation or other legal entity
25 that is the holder of a certificate of authority provided
26 pursuant to Section 16 and that is authorized ~~registered~~ by a

1 title insurance company to solicit title insurance, collect
2 title insurance premiums and endorsement charges, perform core
3 title services, and, if authorized by a title insurance
4 company, ~~and authorized by such company to determine~~
5 ~~insurability of title in accordance with generally acceptable~~
6 ~~underwriting rules and standards in reliance on either the~~
7 ~~public records or a search package prepared from a title~~
8 ~~plant, or both, and authorized by such title insurance company~~
9 ~~in addition to do any of the following:~~ act as an escrow agent
10 pursuant to Sections ~~subsections (f), (g), and (h) of Section~~
11 16, 16.1, and 16.2 of this Act, ~~solicit title insurance,~~
12 ~~collect premiums, or issue title insurance commitments,~~
13 ~~policies, and endorsements of the title insurance company;~~
14 provided, however, the term "title insurance agent" shall not
15 include officers and salaried employees of any title insurance
16 company.

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

26 (5) "Associate" is any firm, association, partnership,

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

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

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

16 (8) "Escrow Agent" means any title insurance company or
17 any title insurance agent, including independent contractors
18 of either, acting on behalf of a title insurance company,
19 which receives deposits, in trust, of funds or documents, or
20 both, for the purpose of effecting the sale, transfer,
21 encumbrance or lease of real property to be held by such escrow
22 agent until title to the real property that is the subject of
23 the escrow is in a prescribed condition. An escrow agent
24 conducting closings shall be subject to the provisions of
25 Sections paragraphs (1) through (4) of subsection (c) of
26 Section 16, 16.1, and 16.2 of this Act.

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

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

1 payment under which reduces the insured amount of a fee or
2 leasehold title insurance policy, shall be excluded in
3 computing the amount of a single risk to the extent that the
4 insured amount of the mortgage title insurance policy does not
5 exceed the insured amount of the fee or leasehold title
6 insurance policy.

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

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

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

1 and (r) ~~(f), (g), and (h)~~ of Section 16, Section 16.1,
2 subsection (h) of Section 17, and Section 17.1 of this Act even
3 if such protection is afforded by contract.

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

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

19 (16) "Core title services" means:

20 (A) review and evaluation of title, tax, judgment,
21 lien, and other searches or search products, private title
22 plant records, records of grantor-grantee and other
23 indices, public records and other records, and any other
24 information and materials which are relevant to a
25 particular property and transaction to determine
26 insurability of title to the property;

1 (B) issuance of title commitments on behalf of a title
2 insurance company, including the determination of the
3 conditions under which the title insurance company will
4 issue the required title insurance policies;

5 (C) determination of, in accordance with applicable
6 law and the title insurance company's underwriting
7 requirements, principles, or guidelines, whether or not
8 underwriting objections stated on the title insurance
9 commitments may be cleared and the circumstances under
10 which the objections will be waived or insured before
11 issuance of the title insurance policies; and

12 (D) issuance of required title insurance policies when
13 all conditions for the issuance have been satisfied.

14 (17) "Title search" means any abstract of title, tract,
15 tax, judgment, or lien searches, limited purpose searches, and
16 any other searches and search products, private title plant
17 records, records of grantor-grantee and other indices, public
18 records and other records, property inspections, records
19 related to the status of title to land, and any other
20 information, materials, and transactions that are relevant to
21 a particular residential real property.

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

23 (215 ILCS 155/15.2 new)

24 Sec. 15.2. Title insurance company duties.

25 (a) This Section applies only to transactions involving

1 residential real property.

2 (b) In the conduct of its title insurance business, every
3 title insurance company shall:

4 (1) Post and publish its current rates and charges
5 associated with its title insurance business with a clear
6 and complete description thereof; including, without
7 limitation, title insurance premiums, endorsements to
8 policies, fees for services as an escrow agent, and all
9 other services and products it provides; conspicuously in
10 its offices and on its websites, social media, and
11 digital, electronic, online, and any other platforms and
12 places that are intended to be visited or viewed by the
13 public. Title insurance companies must also provide their
14 registered title insurance agents with the posted and
15 published rates and charges. A title insurance company
16 must not make a charge which exceeds its published rates
17 and charges. This subsection (b) does not apply to special
18 risk title insurance and endorsement premiums, general
19 advertising, and marketing in media not controlled by the
20 title insurance company, but any such advertising shall
21 contain information, such as an Internet web address or a
22 hyperlink, to a website where the published rates and
23 charges can be viewed by the public.

24 (2) Require all of its title insurance agents to
25 perform, at a minimum in each transaction, all core title
26 services as a condition to that title insurance agent's

1 compensation as set forth in the agency contract, and may
2 not interfere with, assume in whole or in part, or prevent
3 the title insurance agent's performance of any core title
4 service.

5 (3) Agree upon the terms of the agency in writing with
6 its title insurance agents; the terms shall include that
7 the title insurance agent must perform, at a minimum, all
8 core title services as a condition of the title insurance
9 agent's compensation for each title insurance product and
10 endorsement issued and the compensation that the title
11 insurance agent shall receive for the performance of such
12 core title services. Compensation to the title insurance
13 agent for the performance of core title services shall be
14 as stated in the written agency contract.

15 (4) Share title insurance premiums and endorsement
16 charges only with its title insurance agent performing the
17 core title services in a transaction.

18 (5) Agree in writing with any title insurance agent to
19 which the title insurance company provides products or
20 services that are not core title services but are related
21 to the title insurance agent's performance of core title
22 services and are included in the cost of the title
23 insurance premiums and endorsements, such as, if
24 applicable, title searches, underwriting research
25 assistance, quality control, document recording, retention
26 of title documentation, commitment and policy typing, or

1 other products and services to the title insurance agent;
2 the written agreement must set forth, at a minimum, a
3 description of the products and services to be provided
4 and the compensation to be paid for such products and
5 services; such compensation must be commensurate with the
6 actual value of the products and services.

7 (6) Retain any remedy or right of action against its
8 title insurance agent as provided in any law, rule, or
9 regulation for the title insurance agent's failure to
10 perform its obligations under the written agency contract,
11 underwriting requirements, or otherwise as provided by
12 law.

13 (c) In any residential real property transaction in which
14 a title insurance company acts as an escrow agent pursuant to
15 any provision in this Act:

16 (1) A title insurance company's current rates and
17 charges for its products and services rendered as an
18 escrow agent must be included in the posting and
19 publication provided for in subsection (b).

20 (2) A title insurance company shall disburse all title
21 insurance premiums and endorsement charges as directed by
22 the title insurance agent performing core title services
23 under Section 16.2 at the time of settlement or closing.
24 The disbursements shall be in accordance with the written
25 agency or other contracts between the title insurance
26 agent and the title insurance company acting as the escrow

1 agent in the transaction and the distributions shall be
2 clearly and unambiguously disclosed on any applicable
3 closing disclosure or settlement statement and delivered
4 to the parties to the transaction at the time of closing or
5 settlement.

6 (3) A title insurance company shall not share or allow
7 to be shared, either directly or indirectly, any of its
8 compensation for its service as an escrow agent or other
9 products or services with any title insurance agent except
10 as provided in this Section. Any payment which is contrary
11 to this paragraph (3) is a prohibited inducement or
12 compensation for a referral in violation of Section 24.

13 (d) Nothing in this Section shall be construed to restrict
14 or impair a title insurance company's right or ability to
15 determine and promulgate its underwriting requirements,
16 principles, and conditions for insuring any risk that would be
17 covered in a policy of insurance or an endorsement to a policy,
18 or to educate, instruct, or inform its title insurance agents
19 as to its underwriting requirements generally or in a
20 particular transaction or otherwise. Nothing in this Section
21 shall be construed to restrict or impair a title insurance
22 company's right or ability to determine and charge special
23 risk title insurance and endorsement premiums that are
24 different from the posted or published rates and premiums, or
25 to waive or vary from its title insurance underwriting
26 requirements, principles, and conditions for insuring any risk

1 that would be covered in a policy of insurance or an
2 endorsement to a policy in any given case as it, in its sole
3 discretion, may decide.

4 (215 ILCS 155/16) (from Ch. 73, par. 1416)

5 Sec. 16. Title insurance agents.

6 (a) No person, firm, partnership, association, corporation
7 or other legal entity shall act as or hold itself out to be a
8 title insurance agent without first procuring a certificate of
9 authority from the Secretary. A certificate of authority shall
10 remain in effect unless revoked or suspended by the Secretary,
11 voluntarily withdrawn by the holder, or the holder of the
12 certificate of authority is no longer authorized as a title
13 insurance agent of a title insurance company unless duly
14 registered by a title insurance company with the Secretary.

15 (b) Each application for a certificate of authority
16 ~~registration~~ shall be made on a form specified by the
17 Secretary ~~and prepared by each title insurance company which~~
18 ~~the agent represents. The title insurance company shall retain~~
19 ~~the copy of the application and forward a copy to the~~
20 ~~Secretary.~~

21 (c) Every applicant for a certificate of authority
22 ~~registration~~, except a firm, partnership, association, limited
23 liability company, or corporation, must be 18 years or more of
24 age. Included in every application for a certificate of
25 authority ~~registration~~ of a title insurance agent, including a

1 firm, partnership, association, limited liability company, or
2 corporation, shall be an affidavit of the applicant title
3 insurance agent, signed and notarized in front of a notary
4 public, affirming that the applicant and every owner, officer,
5 director, principal, member, or manager of the applicant has
6 never been convicted or pled guilty to any felony or
7 misdemeanor involving a crime of theft or dishonesty or
8 otherwise accurately disclosing any such felony or misdemeanor
9 involving a crime of theft or dishonesty. No person who has had
10 a conviction or pled guilty to any felony or misdemeanor
11 involving theft or dishonesty may qualify for a certificate of
12 authority ~~be registered by a title insurance company~~ without a
13 written notification to the Secretary disclosing the
14 conviction or plea, and no such person may serve as an owner,
15 officer, director, principal, or manager of any ~~registered~~
16 title insurance agent without the written permission of the
17 Secretary.

18 (d) Every applicant that is not duly registered as a title
19 insurance agent on the effective date of this amendatory Act
20 of the 103rd General Assembly shall: ~~Registration shall be~~
21 ~~made annually by a filing with the Secretary; supplemental~~
22 ~~registrations for new title insurance agents to be added~~
23 ~~between annual filings shall be made from time to time in the~~
24 ~~manner provided by the Secretary; registrations shall remain~~
25 ~~in effect unless revoked or suspended by the Secretary or~~
26 ~~voluntarily withdrawn by the registrant or the title insurance~~

1 ~~company.~~

2 (1) Successfully complete a 4-year course of study in
3 a high school or secondary school approved by the state in
4 which the school is located, or possess a State of
5 Illinois High School Diploma, which shall be verified
6 under oath by the applicant.

7 (2) Pass an examination that is designed to determine
8 the competency of the applicant to conduct the business of
9 a title agent and knowledge of basic real property law and
10 title insurance procedures. The applicant shall file with
11 its application satisfactory proof that the applicant has
12 passed the competency examination. The Department shall
13 have the authority to adopt administrative rules to
14 approve testing providers, establish the testing
15 procedures, including, but not limited to, the
16 requirements for passing the examination, and the content
17 of the examination that shall, at a minimum, determine the
18 competency of an applicant in the following subject
19 matters and any other subject matter which the Secretary
20 may determine to be basic and essential to the competent
21 conduct of the business of a title insurance agent, which
22 must include, at a minimum:

23 (i) the Title Insurance Act and its requirements;

24 (ii) Illinois real property law, including, but
25 not limited to, forms of ownership, conveyancing,
26 transfers on death, taxes, judgments, liens, surveys;

1 (iii) basic knowledge of the federal Real Estate
2 Settlement Procedures Act;

3 (iv) core title services; and

4 (v) title examinations and methods, title
5 objections, policy and endorsement forms, waivers of
6 policy exceptions, and escrow procedures.

7 (e) The requirements of subsection (d) do not apply to
8 applicants who are admitted to practice law by the Supreme
9 Court of Illinois and who are in active standing.

10 (f) The Secretary shall issue a certificate of authority
11 to conduct business as a title insurance agent upon
12 determination that an applicant has passed the required
13 examination and is otherwise in compliance with this Act and
14 all applicable laws.

15 (g) Any title insurance agent who is registered on the
16 effective date of this amendatory Act of the 103rd General
17 Assembly may continue to conduct the business of title
18 insurance as a title insurance agent for a period of 90 days
19 after the effective date of this amendatory Act of the 103rd
20 General Assembly and shall be issued a certificate of
21 authority upon the filing by a title insurance company with
22 the Secretary a written agency agreement that complies with
23 this Act within 90 days after the effective date of this
24 amendatory Act of the 103rd General Assembly.

25 (h) A title insurance company shall annually file with the
26 Secretary a list of all title insurance agents authorized to

1 conduct the business of title insurance as an agent of the
2 title insurance company. Supplemental filings for new title
3 insurance agents to be added between annual filings shall be
4 made from time to time in the manner provided by the Secretary.
5 A title insurance company shall immediately notify the
6 Secretary of any title insurance agent whose agency has been
7 terminated, and shall immediately file with the Secretary any
8 new title insurance agency agreement that replaces an
9 agreement already on file or which has been revised or amended
10 in any way.

11 (i) The Secretary shall maintain a database of title
12 insurance agents in good standing on a publicly accessible
13 website that any person may use to verify the authority of a
14 particular title insurance agent.

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

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

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

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

11 (k) A title insurance agent shall not act as an escrow
12 agent in a residential real property transaction unless the
13 title insurance agent files with the Secretary and the
14 Secretary approves cash or bonds of the United States, this
15 State, or any body politic of this State in the amounts
16 specified in subsection (l). The deposit is not to be
17 otherwise pledged or subject to distribution among creditors
18 or stockholders until all claims of escrow depositors have
19 been paid in full or discharged, reinsured, or otherwise
20 assumed by a title insurance company authorized to do business
21 under this Act. The cash, bonds, and securities so deposited
22 may be exchanged for other such securities. No such cash,
23 bond, or security shall be sold or transferred by the
24 Secretary except on order of the circuit court or as provided
25 in subsection (o). The company shall be permitted to receive
26 from the Secretary the interest on the deposit as long as the

1 company depositing such securities remains solvent.

2 (l) The deposit required under subsection (k) must have a
3 then current value of \$500,000. All deposits shall be held for
4 the benefit of any named party to a written escrow it accepted.
5 The deposit is not to be otherwise pledged or subject to
6 distribution among creditors or stockholders.

7 (m) The Secretary may provide for custody of the deposits
8 by any trust company or bank located in this State and
9 qualified to do business under the Corporate Fiduciary Act.
10 The compensation, if any, of such custodian shall be paid by
11 the depositing company. When the required deposits have been
12 made by a title insurance agent that intends to act as an
13 escrow agent in any residential real property transaction, the
14 Secretary shall certify that the title insurance agent has
15 complied with the provisions of this Section and is authorized
16 to transact the business of a title insurance agent acting as
17 an escrow agent in residential real property transactions.

18 (n) Before doing business in the State of Illinois in a
19 residential real property transaction, an escrow agent must
20 file with and have approved by the Secretary proof of a
21 fidelity bond in the minimum amount of \$1,000,000 per
22 occurrence, errors and omissions insurance in the minimum
23 amount of \$1,000,000 per occurrence, and cybercrime insurance
24 coverage in the minimum amount of \$500,000 per occurrence. The
25 insurance policies required shall be issued by insurers that
26 are authorized to conduct such insurance business in the State

1 of Illinois. The title insurance agent may not conduct title
2 insurance business as an escrow agent unless the deposit,
3 fidelity bond, errors and omissions insurance, and cybercrime
4 insurance coverage required by this Section are continuously
5 maintained.

6 (o) The Secretary may revoke the certificate of authority
7 of a title insurance agent acting as an escrow agent that fails
8 to maintain the deposit, fidelity bond, errors and omissions
9 insurance, or cybercrime insurance coverage required by this
10 Section. The Secretary shall give notice of that revocation to
11 such title insurance agent as provided by this Act, and during
12 the time of the revocation the title insurance agent may not
13 conduct any title insurance business as an escrow agent. A
14 revocation shall not be set aside until the title insurance
15 agent has filed with and has been approved by the Secretary in
16 accordance with the requirements of this Section and the title
17 insurance agent is otherwise in compliance with this Act.

18 (p) ~~(f)~~ A title insurance agent shall not act as an escrow
19 agent in a nonresidential real property transaction where the
20 amount of settlement funds on deposit with the escrow agent is
21 less than \$2,000,000 or in a residential real property
22 transaction unless the title insurance agent, title insurance
23 company, or another authorized title insurance agent has
24 committed for the issuance of title insurance in that
25 transaction and the title insurance agent is authorized to act
26 as an escrow agent on behalf of the title insurance company for

1 which the commitment for title insurance has been issued. The
2 authorization under the preceding sentence shall be given
3 either (1) by an agency contract with the title insurance
4 company which contract, in compliance with the requirements
5 set forth in subsection (q) ~~(g)~~ of this Section, authorizes
6 the title insurance agent to act as an escrow agent on behalf
7 of the title insurance company or (2) by a closing protection
8 letter in compliance with the requirements set forth in
9 Section 16.1 of this Act, issued by the title insurance
10 company to the seller, buyer, borrower, and lender. A closing
11 protection letter shall not be issued by a title insurance
12 agent. ~~The provisions of this subsection (f) shall not apply~~
13 ~~to the authority of a title insurance agent to act as an escrow~~
14 ~~agent under subsection (g) of Section 17 of this Act.~~

15 (q) ~~(g)~~ If an agency contract between the title insurance
16 company and the title insurance agent is the source of the
17 authority under subsection (p) ~~(f)~~ of this Section for a title
18 insurance agent to act as escrow agent for a real property
19 transaction, then the agency contract shall provide for no
20 less protection from the title insurance company to all
21 parties to the real property transaction than the title
22 insurance company would have provided to those parties had the
23 title insurance company issued a closing protection letter in
24 conformity with Section 16.1 of this Act.

25 (r) ~~(h)~~ A title insurance company shall be liable for the
26 acts or omissions of its title insurance agent as an escrow

1 agent if the title insurance company has authorized the title
2 insurance agent under subsections (p) through (q) ~~(f) and (g)~~
3 of this Section 16 and only to the extent of the liability
4 undertaken by the title insurance company in the agency
5 agreement or closing protection letter. The liability, if any,
6 of the title insurance agent to the title insurance company
7 for acts and omissions of the title insurance agent as an
8 escrow agent shall not be limited or otherwise modified
9 because the title insurance company has provided closing
10 protection to a party or parties to a real property
11 transaction escrow, settlement, or closing. The escrow agent
12 shall not charge a fee for protection provided by a title
13 insurance company to parties to real property transactions
14 under subsections (p) through (q) ~~(f) and (g)~~ of this Section
15 16 and Section 16.1, but shall collect from the parties the fee
16 charged by the title insurance company and shall promptly
17 remit the fee to the title insurance company. The title
18 insurance company may charge the parties a reasonable fee for
19 protection provided pursuant to subsections (p) through (q)
20 ~~(f) and (g)~~ of this Section 16 and Section 16.1 and shall not
21 pay any portion of the fee to the escrow agent. The payment of
22 any portion of the fee to the escrow agent by the title
23 insurance company, shall be deemed a prohibited inducement or
24 compensation in violation of Section 24 of this Act.

25 (s) ~~(i)~~ The Secretary shall adopt and amend such rules as
26 may be required for the proper administration and enforcement

1 of this Section 16 consistent with the federal Real Estate
2 Settlement Procedures Act and Section 24 of this Act.

3 (Source: P.A. 98-398, eff. 1-1-14; 98-832, eff. 1-1-15;
4 99-104, eff. 1-1-16.)

5 (215 ILCS 155/16.2 new)

6 Sec. 16.2. Title insurance agent duties.

7 (a) This Section shall apply only to transactions
8 involving residential real property.

9 (b) In the conduct of its title insurance business, every
10 title insurance agent shall:

11 (1) Post and publish the current rates and charges of
12 each of its title insurance company principals, as
13 provided by the title insurance company, conspicuously in
14 its offices and on its websites, social media, and
15 digital, electronic, online, and any other platforms and
16 places that are intended to be visited or viewed by the
17 public. A title insurance agent shall not make a charge
18 that exceeds the published rates and charges. This
19 subsection (b) does not apply to special risk title
20 insurance and endorsements premiums, general advertising,
21 and marketing in media not controlled by the title
22 insurance agent, but any such advertising shall contain
23 information, such as an Internet web address or a
24 hyperlink, to a website where such published rates and
25 charges can be viewed by the public.

1 (2) Agree upon the terms of the agency in writing with
2 each title insurance company for which it is a registered
3 agent; the terms shall include that the title insurance
4 agent must perform, at a minimum, all core title services
5 as a condition of the title insurance agent's compensation
6 for each title insurance product and endorsement issued,
7 and the compensation that the title insurance agent shall
8 receive for the performance of such core title services.
9 Compensation received by the title insurance agent for the
10 performance of core title services shall not exceed that
11 which is stated in the written agency contract.

12 (3) Enter into an agreement in writing with any escrow
13 agent or title insurance agent that provides products or
14 services that are not core title services but that are
15 related to the title insurance agent's performance of core
16 title services and are included in the title insurance and
17 endorsements premiums, such as, if applicable, title
18 searches, underwriting research assistance, quality
19 control, document recording, retention of title
20 documentation, commitment and policy typing, or other
21 products and services to the title insurance agent; the
22 agreement shall set forth, at a minimum, a description of
23 the product and services to be provided and the
24 compensation to be paid for such products and services;
25 such compensation shall be commensurate with the actual
26 value of such products and services.

1 (4) Perform, at a minimum, all core title services;
2 core title services shall not be duplicative of any
3 professional or other service rendered in a transaction as
4 a condition of its compensation as set forth in the agency
5 agreement.

6 (5) Direct the escrow agent or independent escrowee as
7 to the disbursement at the time of settlement or closing
8 of title insurance premiums and endorsement charges to the
9 title insurance company in accordance with its agency
10 contract and to the escrow agent in accordance with its
11 written agreement. All such disbursements shall be clearly
12 and unambiguously disclosed on any applicable closing
13 disclosure and settlement statement and delivered to the
14 parties to the transaction at the time of closing or
15 settlement.

16 (6) Not share or allow to be shared, either directly
17 or indirectly, any of its compensation for any products or
18 services charged directly to a party in the transaction
19 with any other title insurance agent except as provided in
20 this Section. Any payment which is contrary to this
21 paragraph (6) is a prohibited inducement or compensation
22 for a referral in violation of Section 24.

23 (c) In any transaction in which a title insurance agent
24 acts as an escrow agent pursuant to Sections 16, 16.1, and 16.2
25 of this Act or any other provision in this Act:

26 (1) The title insurance agent's current rates and

1 charges for its products and services rendered as an
2 escrow agent shall be included in the posting and
3 publication provided for in subsection (b). An escrow
4 agent shall not make any charge that exceeds its published
5 rates and charges.

6 (2) The escrow agent shall disburse all title
7 insurance premiums and endorsement charges as directed by
8 the title insurance agent performing core title services
9 at the time of settlement or closing of the transaction.
10 The disbursement shall include payment for any products or
11 services that are not core title services but that are
12 related to the title insurance agent's performance of core
13 title services and are included in the cost of the title
14 insurance premiums and endorsements, such as, if
15 applicable, title searches, underwriting research
16 assistance, quality control, document recording, retention
17 of title documentation, commitment and policy typing, or
18 other products and services to the title insurance agent
19 that were supplied to the title insurance agent by an
20 escrow agent or other title insurance agent. The
21 disbursements shall be in accordance with the written
22 agency or other agreement between the title insurance
23 agent and escrow agent or other title insurance agent in
24 the transaction and the distributions shall be clearly and
25 unambiguously disclosed on any applicable closing
26 disclosure or settlement statement and delivered to the

1 parties to the transaction at the time of closing or
2 settlement.

3 (3) The escrow agent shall not share or allow to be
4 shared, either directly or indirectly, any of its
5 compensation for its service as an escrow agent or other
6 products or services charged directly to a party in the
7 transaction with any other title insurance agent except as
8 provided in this Section. Any payment that is contrary to
9 this paragraph (3) is a prohibited inducement or
10 compensation for a referral in violation of Section 24.

11 (215 ILCS 155/17.2 new)

12 Sec. 17.2. Independent escrowee duties.

13 (a) This Section shall apply only to transactions
14 involving residential real property.

15 (b) In the conduct of its escrow, settlement, or closing
16 business, and its operation as an escrow, settlement, or
17 closing agent as provided in Section 17, every independent
18 escrowee shall:

19 (1) Post and publish the current rates and charges
20 associated with its performance of the services and
21 obligations as an independent escrowee and all other
22 services and products it provides with a clear and
23 complete description thereof conspicuously in its offices
24 and on its websites, social media, and digital,
25 electronic, online, and any other platforms and places

1 that are intended to be visited or viewed by the public. An
2 independent escrowee shall not make a charge that exceeds
3 the published rates and charges. This paragraph (1) shall
4 not apply to general advertising and marketing in media
5 not controlled by the independent escrowee, but any such
6 advertising shall contain information, such as an Internet
7 web address or a hyperlink, to a website where such
8 published rates and charges can be viewed by the public.

9 (2) Disburse all title insurance premiums and
10 endorsement charges as directed by the title insurance
11 agent performing core title services under subsection (c)
12 of Section 16.2 at the time of settlement or closing. All
13 such disbursements shall be clearly and unambiguously
14 disclosed on any applicable closing disclosure or
15 settlement statement and delivered to the parties to the
16 transaction at the time of closing or settlement.

17 (c) An independent escrowee shall not share or allow to be
18 shared any of its compensation for its escrow and settlement
19 services with any title insurance company or title insurance
20 agent except as provided in this Section. Any payment that is
21 contrary to this subsection (c) is a prohibited inducement or
22 compensation for a referral in violation of Section 24.

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