



Sen. Don Harmon

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LRB101 09891 RAB 57660 a

1 AMENDMENT TO SENATE BILL 1317

2 AMENDMENT NO. _____. Amend Senate Bill 1317 by replacing
3 everything after the enacting clause with the following:

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 of
16 the following activities when conducted or performed in

1 contemplation of or in conjunction with the issuance of
2 title insurance;

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

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

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

13 (iv) executing title insurance policies;

14 (v) effecting contracts of reinsurance;

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

16 or

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

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

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

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

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

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

1 (3) "Title insurance agent" means a person, firm,
2 partnership, association, corporation or other legal entity
3 licensed under this Act ~~registered by a title insurance company~~
4 and authorized by a title insurance ~~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 plant,
8 or both, and authorized by such title insurance company in
9 addition to do any of the following: act as an escrow agent
10 pursuant to subsections (f), (g), and (h) of Section 16 of this
11 Act, solicit title insurance, collect premiums, or issue title
12 insurance commitments, policies, and endorsements of the title
13 insurance company; provided, however, the term "title
14 insurance agent" shall not include officers and salaried
15 employees of any title insurance company.

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

25 (5) "Associate" is any firm, association, partnership,
26 corporation or other legal entity organized for profit in which

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

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

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

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

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

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

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

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

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

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

8 (13) "Insured closing letter" or "closing protection
9 letter" means an indemnification or undertaking to a party to a
10 real property transaction, from a principal such as a title
11 insurance company, setting forth in writing the extent of the
12 principal's responsibility for intentional misconduct or
13 errors in closing the real property transaction on the part of
14 a settlement agent, such as a title insurance agent or other
15 settlement service provider, or an indemnification or
16 undertaking given by a title insurance company or an
17 independent escrowee setting forth in writing the extent of the
18 title insurance company's or independent escrowee's
19 responsibility to a party to a real property transaction which
20 indemnifies the party against the intentional misconduct or
21 errors in closing the real property transaction on the part of
22 the title insurance company or independent escrowee and
23 includes protection afforded pursuant to subsections (f), (g),
24 and (h) of Section 16, Section 16.1, subsection (h) of Section
25 17, and Section 17.1 of this Act even if such protection is
26 afforded by contract.

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

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

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

17 (215 ILCS 155/5) (from Ch. 73, par. 1405)

18 Sec. 5. Certificate of authority required to engage in
19 activities under this Act.

20 (a) It is unlawful for any company to engage or to continue
21 in the business of title insurance without first procuring from
22 the Secretary a certificate of authority stating that the
23 company has complied with the requirements of Section 4 of this
24 Act. An insurer that transacts any class of insurance other
25 than title insurance anywhere in the United States is not

1 eligible for the issuance of a certificate of authority to
2 transact title insurance in this State nor for a renewal of a
3 certificate of authority.

4 (b) It is unlawful for any person, firm, partnership,
5 association, corporation, or other legal entity to act as or
6 hold itself out to be a title insurance agent unless first
7 procuring from the Secretary a certificate of authority subject
8 to the conditions of subsection (a) of Section 16.

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

10 (215 ILCS 155/12) (from Ch. 73, par. 1412)

11 Sec. 12. Examinations; compliance.

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

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

1 ~~will be the responsibility of the title insurance company. In~~
2 ~~the event that a present or former registered agent or its~~
3 ~~successor refuses or is unable to cooperate with a title~~
4 ~~insurance company in furnishing the records requested by the~~
5 ~~Secretary or his or her authorized agent, then the Secretary or~~
6 ~~his or her authorized agent shall have the power and authority~~
7 ~~to obtain those records directly from the registered agent.~~

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

9 (215 ILCS 155/14) (from Ch. 73, par. 1414)

10 Sec. 14. Fees.

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

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

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

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

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

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

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

1 immediately preceding calendar year.

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

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

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

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

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

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

15 (215 ILCS 155/14.1)

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

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

22 (215 ILCS 155/16) (from Ch. 73, par. 1416)

23 Sec. 16. Title insurance agents.

24 (a) No person, firm, partnership, association, corporation

1 or other legal entity shall act as or hold itself out to be a
2 title insurance agent unless it has been issued a certificate
3 of authority by ~~duly registered by a title insurance company~~
4 ~~with~~ the Secretary. Every title insurance agent registration
5 before or after the effective date of this amendatory Act of
6 the 101st General Assembly shall satisfy the requirements for a
7 certificate of authority under this amendatory Act of the 101st
8 General Assembly until January 1 of the calendar year
9 immediately following the adoption of such rules that the
10 Secretary shall adopt as may be necessary for the
11 administration of granting of the certificates of authority for
12 title insurance agents under this amendatory Act of the 101st
13 General Assembly, and until the related application is either
14 approved or disapproved; the continued recognition of such
15 title insurance agent registrations during this period does not
16 relieve title insurance agents and title insurance companies of
17 their other obligations under this Act before the effective
18 date of this amendatory Act of the 101st General Assembly.

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

26 (c) Every applicant for a certificate of authority

1 ~~registration~~, except a firm, partnership, association, limited
2 liability company, or corporation, must be 18 years or more of
3 age.

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

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

1 serve as an owner, officer, director, principal, or manager
2 of any ~~registered~~ title insurance agent without the written
3 permission of the Secretary.

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

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

24 (d) A certificate of authority ~~Registration~~ shall be
25 renewed on January 1 every 2 years ~~made annually~~ by a filing
26 with the Secretary; supplemental filings ~~registrations~~ for a

1 new agency agreement with a title insurance company ~~agents~~ to
2 be added between certificate of authority renewal ~~annual~~
3 filings shall be made by the title insurance agent from time to
4 time in the manner provided by the Secretary; certificates of
5 authority ~~registrations~~ shall remain in effect unless revoked
6 or suspended by the Secretary or voluntarily withdrawn by the
7 title insurance agent, registrant or the title insurance agent
8 no longer has any agency agreement with a title insurance
9 company.

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

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

26 The escrow agent shall maintain separate records of all

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

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

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

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

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

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

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

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

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

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

19 Sec. 18. Disclosure of financial interests ~~No referral~~
20 ~~payments; kickbacks.~~

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

24 (b) No title insurance company, independent escrowee, or
25 title insurance agent may issue a title insurance policy to, or

1 provide services to an applicant if it knows or has reason to
2 believe that the applicant was referred to it by any producer
3 of title business or by any associate of such producer, where
4 the producer, the associate, or both, have a financial interest
5 in the title insurance company, independent escrowee, or title
6 insurance agent to which business is referred unless the
7 producer has disclosed to any party paying for the products or
8 services, or his representative, the financial interest of the
9 producer of title business or associate referring the title
10 business and a disclosure of an estimate of those charges to be
11 paid as described in Section 19. Such disclosure must be made
12 in writing on forms prescribed by the Secretary prior to the
13 time that the commitment for title insurance is issued. The
14 title insurance company, independent escrowee, or title
15 insurance agent shall maintain the disclosure forms for a
16 period of 3 years.

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

26 (1) Each title insurance company and independent

1 escrowee shall file the report required under this
2 subsection with its application for a certificate of
3 authority and at any time there is a change in the
4 information provided in the last report.

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

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

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

16 (215 ILCS 155/18.2 new)

17 Sec. 18.2. Title insurance rate.

18 (a) Rate filing requirements.

19 (1) Every title insurance company shall file with the
20 Secretary every manual of classifications, rules, plans,
21 forms, and schedules of fees and every modification of any
22 of the foregoing relating to the rates that it proposes to
23 use. Every such filing shall state the proposed effective
24 date and shall indicate the character and extent of the
25 coverage contemplated.

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

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

10 (4) Subject to the provisions of paragraphs (5) and (6)
11 and either approval or disapproval of the Secretary, each
12 filing shall be on file for a period of 30 days before it
13 becomes effective. The Secretary may, upon written notice
14 to the person making the filing within the 30-day period,
15 extend the period no more than 30 days to enable the
16 Secretary to complete the review of the filing. Further
17 extensions of the waiting period may be made with the
18 consent of the title insurance company or rating
19 organization making the filing. Upon written application
20 by the title insurance company or rating organization
21 making the filing, the Secretary may authorize a filing or
22 any part of a filing to become effective before the
23 expiration of the waiting period or any extension.

24 (5) When the Secretary finds that any rate for a
25 particular kind or class of risk cannot practicably be
26 filed before it is used, or any contract or kind of title

1 insurance, by reason of rarity or peculiar circumstances,
2 does not lend itself to advance determination and filing of
3 rates, the Secretary may permit the rates to be used
4 without a previous filing and waiting period.

5 (6) A rate in excess of a filing may be used on any
6 specific risk upon the written consent of the insured,
7 filed with the Secretary, explaining the applicability of
8 the rate to the specific risk; the rate becomes effective
9 when the consent is filed.

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

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

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

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

21 (c) Making of rates.

22 (1) In making rates, due consideration shall be given
23 to past and prospective loss experience, to exposure to
24 loss, to underwriting practice and judgment, to the extent
25 appropriate, to past and prospective expenses, the
26 expenses incurred by title insurance companies, to a

1 reasonable margin for profit and contingencies, and to all
2 other relevant factors both within and outside of this
3 State.

4 (2) Rates shall not be inadequate or unfairly
5 discriminatory, nor shall rates be excessive; that is, such
6 as to permit title insurance companies to earn a greater
7 profit, after payment of all taxes upon all income, than is
8 necessary to enable them to earn over the years sufficient
9 amounts to pay their actual expenses and losses arising in
10 the conduct of their title insurance business, including
11 the actual costs of maintaining a title plant, plus a
12 reasonable profit.

13 (3) In ascertaining the estimated future earnings of
14 title insurance companies, the Secretary shall utilize a
15 properly weighted cross section of title insurance
16 companies operating in this State representative of the
17 average of normally efficiently operated title insurance
18 companies including on a weighted basis, both title
19 insurance companies having their own title plants, and
20 those not operating upon the title plant system. In
21 ascertaining what is a reasonable profit after payment of
22 all taxes on such income, the Secretary shall give due
23 consideration to the following matters:

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

26 (B) the desirability for stability of rate

1 structure;

2 (C) the necessity of insuring through growth in
3 assets in times of high business activity, the
4 financial solvency of title insurance companies in
5 times of economic depression; and

6 (D) The necessity for earning sufficient dividends
7 on the stock of title insurance companies to induce
8 capital to be invested in title insurance companies.

9 (4) The systems of expense provisions and the amount of
10 expense charged against each class of contract or policy
11 may vary between title insurance companies. Rates may, in
12 the discretion of any title insurance company, be less than
13 the cost of performing the work in the case of smaller
14 insurances, and the excess may be charged against the
15 larger insurances without rendering the rates unfairly
16 discriminatory.

17 (d) Disapproval of filings. If the Secretary finds that the
18 filing or a part of the filing does not meet the requirements
19 of this Act, the Secretary shall issue an order specifying in
20 what respects it fails to meet the requirements of this Act. If
21 the filing or part of the filing already has become effective,
22 the order shall also state when, within a reasonable period,
23 such filing or part shall be deemed no longer effective. A
24 title insurance company or rating organization shall have the
25 right at any time to withdraw a filing or a part of the filing,
26 subject to the provisions of subsection (f) of this Section

1 regarding deviations. Copies of the order shall be sent to
2 every such title insurance company and rating organization. The
3 order shall not affect any contract or policy made or issued
4 prior to the expiration of the period set forth in the order.

5 (e) Rating organizations.

6 (1) A corporation, an unincorporated association, a
7 partnership, or an individual, whether located within or
8 outside this State, may make application to the Secretary
9 for a license as a rating organization for title insurance
10 companies.

11 (A) An entity seeking a license as a rating
12 organization shall file:

13 (i) a copy of its constitution, its articles of
14 agreement or association or its certificate of
15 incorporation, and of its bylaws, rules, and
16 regulations governing the conduct of its business;

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

18 (iii) the name and address of a resident of
19 this State upon whom notices or orders of the
20 Secretary or process affecting such rating
21 organization may be served; and

22 (iv) a statement of its qualifications as a
23 rating organization.

24 (B) If the Secretary finds that the applicant is
25 competent, trustworthy, and otherwise qualified to act
26 as a rating organization, and that its constitution,

1 articles of agreement or association or certificate of
2 incorporation, and its bylaws, rules, and regulations
3 governing the conduct of its business conforms to the
4 requirements of law, the Secretary shall issue a
5 license authorizing the applicant to act as a rating
6 organization for title insurance. Every such
7 application shall be granted or denied in whole or in
8 part by the Secretary within 60 days after the date of
9 its filing. Licenses issued under this Section shall
10 remain in effect for 3 years unless sooner suspended or
11 revoked by the Secretary or withdrawn by the licensee.
12 The fee for the license shall be \$25. Licenses issued
13 under this Section may be suspended or revoked by the
14 Secretary, after hearing upon notice, in the event the
15 rating organization ceases to meet the requirements of
16 this subsection.

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

19 (i) its constitution, its articles of
20 agreement or association or its certificate of
21 incorporation, and its bylaws, rules, and
22 regulations governing the conduct of its business;

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

24 (iii) the name and address of the resident of
25 this State designated by it upon whom notices or
26 orders of the Secretary or process affecting such

1 rating organization may be served.

2 (2) Subject to rules adopted by the Secretary, each
3 rating organization shall permit any title insurance
4 company not a member to be a subscriber to its rating
5 services. Each rating organization shall furnish its
6 rating services without discrimination to its members and
7 subscribers. The furnishing of rating services without
8 discrimination to its members and subscribers, or the
9 refusal of any rating organization to admit a title
10 insurance company as a subscriber, shall, at the request of
11 any subscriber or any such title insurance company, be
12 reviewed by the Secretary at a hearing held upon at least
13 10 days' written notice to such rating organization and to
14 such subscriber or title insurance company. If the
15 Secretary finds that the actions of the rating organization
16 were discriminatory, the Secretary shall order that such
17 actions cease. If the rating organization fails to grant or
18 reject an application of a title insurance company for
19 subscribership within 30 days after it was made, the title
20 insurance company may request a review by the Secretary as
21 if the application had been rejected. If the Secretary
22 finds that the title insurance company has been refused
23 admittance to the rating organization as a subscriber
24 without justification, the Secretary shall order the
25 rating organization to admit the title insurance company as
26 a subscriber. If the Secretary finds that the action of the

1 rating organization was justified, the Secretary shall
2 make an order affirming its action.

3 (3) Cooperation among rating organizations, or among
4 rating organizations and title insurance companies, and
5 concert of action among title insurance companies under the
6 same general management and control in rate making or in
7 other matters within the scope of this Act is hereby
8 authorized, provided that the filings are subject to all
9 the provisions of this Act that are applicable to filings
10 generally. The Secretary may review such activities and
11 practices and if, after a hearing, the Secretary finds that
12 any such activity or practice is unfair or unreasonable or
13 otherwise inconsistent with the provisions of this Act, the
14 Secretary may issue a written order specifying in what
15 respects such activity or practice is unfair or
16 unreasonable or otherwise inconsistent with the provisions
17 of this Act and requiring the discontinuance of such
18 activity or practice.

19 (f) Deviations. Every member of or subscriber to a rating
20 organization shall adhere to the filings made on its behalf by
21 such organization, except that any title insurance company that
22 is a member of or subscriber to a rating organization may file
23 with the Secretary a decrease or increase to be applied to any
24 or all elements of the fees produced by the rating system so
25 filed for a class of title insurance that is found by the
26 Secretary to be a proper rating unit for the application of

1 such uniform decrease or increase, or to be applied to the
2 rates for a particular area. Such deviation filing shall
3 specify the basis for the modification and shall be accompanied
4 by the data or historical pattern upon which the applicant
5 relies. A copy of the filing and data shall be sent
6 simultaneously to such rating organization. Any such deviation
7 filing shall be on file for a waiting period of 30 days before
8 it becomes effective. The Secretary shall make such review of
9 the deviation filing as may be necessary to carry out the
10 provisions of this Act, and either approve or disapprove the
11 filing or any part of the filing, including the proposed
12 effective date. Extension of the waiting period may be made in
13 the same manner that the period is extended in the case of rate
14 filings. Upon written application of the person making the
15 filing, the Secretary may authorize a deviation filing or any
16 part of the filing to become effective before the expiration of
17 the waiting period or any extension. Deviation filings shall be
18 subject to the provisions of subsection (d) of this Section.
19 Each deviation shall be effective for at least one year after
20 the date such deviation is approved unless terminated sooner
21 with the approval of the Secretary, or in accordance with the
22 provisions of subsection (d) of this Section.

23 (g) Examinations of rating organizations. The Secretary
24 shall, at least once in 5 years, make or cause to be made an
25 examination of a rating organization licensed under this Act in
26 this State. The reasonable costs of the examination shall be

1 paid by the rating organization examined upon presentation to
2 it of a detailed account of such costs. The officers, managers,
3 agents, and employees of the rating organization may be
4 examined at any time under oath and shall exhibit all books,
5 records, accounts, documents, or agreements governing its
6 method of operation. The Secretary shall furnish 2 copies of
7 the examination report to the organization examined and shall
8 notify such organization that it may, within 20 days, request a
9 hearing on the report or on any facts or recommendations
10 contained in the report. Before filing the report for public
11 inspection, the Secretary shall grant a hearing to the
12 organization examined. The report of the examination, when
13 filed for public inspection, shall be admissible in evidence in
14 any action or proceeding brought by the Secretary against the
15 organization examined, or its officers or agents, and shall be
16 prima facie evidence of facts stated in the report. The
17 Secretary may withhold the report of the examination from
18 public inspection for such time as the Secretary may deem
19 proper. In lieu of the examination, the Secretary may accept
20 the report of an examination made by the title insurance
21 supervisory official of another state pursuant to the laws of
22 that state.

23 (h) Rate administration.

24 (1) The Secretary shall adopt reasonable rules and
25 statistical plans, reasonably adapted to each of the rating
26 systems on file with the Secretary, which may be modified

1 from time to time, and which shall be used by each title
2 insurance company in the recording and reporting of the
3 composition of its business, its loss and countrywide
4 expense experience and those of its title insurance
5 underwriters in order that the experience of all title
6 insurance companies may be made available, at least
7 annually, in such form and detail as may be necessary to
8 aid the Secretary in determining whether rating systems
9 comply with the standards set forth in this Act. The rules
10 and plans may also provide for the recording and reporting
11 of expense experience items that are specially applicable
12 to this State and are not susceptible of determination by a
13 prorating of countrywide expense experience. In adopting
14 the rules and plans, the Secretary shall give due
15 consideration to the rating systems on file with the
16 Secretary, and in order that the rules and plans may be as
17 uniform as is practicable among the several states, to the
18 rules and to form of the plans used for such rating systems
19 in other states. The rules and plans shall not place an
20 unreasonable burden of expense on any title insurance
21 company. No title insurance company shall be required to
22 record or report its expense and loss experience on a
23 classification basis that is inconsistent with the rating
24 system filed by it, nor shall any title insurance company
25 be required to report its experience to any agency of which
26 it is not a member or subscriber. The Secretary may

1 designate one or more rating organizations or other
2 agencies to assist the Secretary in gathering such
3 experience and making compilations, and such compilations
4 shall be made available, subject to reasonable rules
5 adopted by the Secretary, to title insurance companies and
6 rating organizations.

7 (2) Reasonable rules and plans may be adopted by the
8 Secretary for the interchange of data necessary for the
9 application of rating plans.

10 (3) In order to further uniform administration of rate
11 regulatory laws, the Secretary and every title insurance
12 company and rating organization may exchange information
13 and experience data with title insurance supervisory
14 officials, title insurance companies, and title insurance
15 rating organizations in other states, and may consult with
16 them with respect to rate making and the application of
17 rating systems.

18 (4) In addition to any powers expressly enumerated in
19 this Act, the Secretary shall have full power and
20 authority, and it shall be their duty, to enforce and carry
21 out by rules, orders, or otherwise the provisions of this
22 Act and the full intent. The Secretary may adopt rules
23 consistent with this Act as may be necessary or proper in
24 the exercise of his or her powers or for the performance of
25 his or her duties under this Act.

26 (i) False or misleading information. No person or

1 organization shall willfully withhold information from or
2 knowingly give false or misleading information to the
3 Secretary, any statistical agency designated by the Secretary,
4 any rating organization, or any title insurance company that
5 will affect the rates or fees chargeable under this Act.

6 (j) Penalties.

7 (1) The Secretary may, if the Secretary finds that any
8 person or organization has violated any provision of this
9 Section, impose a penalty of not more than \$500 for each
10 such violation, but if the Secretary finds such violation
11 to be willful, the Secretary may impose a penalty of not
12 more than \$5,000 for each such violation. Such penalties
13 may be in addition to any other penalty provided by law.

14 (2) The Secretary may suspend the license of a rating
15 organization or the certificate of authority of a title
16 insurance company that fails to comply with an order of the
17 Secretary within the time limited by such order, or any
18 extension that the Secretary may grant. The Secretary shall
19 not suspend the license of any rating organization or the
20 certificate of authority of a title insurance company for
21 failure to comply with an order until the time prescribed
22 for an appeal has expired or, if an appeal has been taken,
23 until such order has been affirmed. The Secretary may
24 determine when a suspension of license shall become
25 effective, and it shall remain in effect for the period
26 fixed by the Secretary, unless the Secretary modifies or

1 rescinds the suspension, or until the order upon which the
2 suspension is based is modified, rescinded, or reversed.

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

9 (4) All hearings provided for in this Section shall be
10 conducted, and the decision of the Secretary on the issue
11 or filing involved shall be rendered, in accordance with
12 the Administrative Review Law.

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

15 (1) separate filings shall be provided for the 2
16 following geographic zones:

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

19 (B) Zone 2 comprising all other counties within the
20 State.

21 The Secretary shall submit a report to the Governor and
22 General Assembly no later than January 1, 2023 as to
23 whether multiple zones are justified based on differences
24 in costs between the zones.

25 (2) Rates shall be separated into classes based on
26 monetary insurance ranges without distinction of

1 commercial or residential use of the property.

2 (3) From the owner's policy premium, loan policy
3 premium, and residential real property endorsement
4 charges, which does not include closing protection letter
5 charges, a title agent shall retain 80% and remit 20% to a
6 title insurance company if services are performed by the
7 title insurance agent to at least (i) determine
8 insurability of title, which includes title examination
9 and title clearance, and (ii) issue title insurance
10 commitments, policies, and endorsements. For endorsement
11 charges that are not for residential real property as
12 defined in Section 3 of this Act, which does not include
13 closing protection letter charges, a title agent shall
14 retain 80% and remit 20% to a title insurance company
15 provided the title agent is authorized pursuant to its
16 agency contract to issue the endorsement and completes the
17 work necessary to issue the endorsement. If the title agent
18 is not authorized pursuant to its agency agreement to issue
19 the endorsement and does not complete the work necessary to
20 issue the endorsement, the title agent shall retain 0% and
21 remit 100% of the charge to a title insurance company.

22 (4) Any fees charged to the parties to the transaction
23 other than the owner's policy premium, loan policy premium,
24 and endorsement charges shall not be retained or remitted
25 between a title insurance company and title insurance
26 agent, or with any other entity or individual, unless the

1 charges are being retained or remitted in an amount
2 directly related to services actually performed.

3 (5) Subject to all other provisions of this Section
4 regarding rate filing requirements, a rate filing shall
5 also include a specification of services to be performed
6 for each fee intended to be charged to the parties to the
7 transaction, which includes, but is not limited to, closing
8 fees, escrow fees, settlement fees, closing protection
9 letter fees subject to Section 16.1 of this Act, and like
10 charges, and is applicable to services provided by an
11 independent escrowee, which must similarly file a
12 specification of services with the secretary.

13 (215 ILCS 155/21) (from Ch. 73, par. 1421)

14 Sec. 21. Regulatory action.

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

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

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

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

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

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

12 (5.1) has accepted or referred a title order with
13 knowledge that the order was placed in exchange for the
14 express or implicit promise that a consumer will be
15 referred to that provider for services;

16 (5.2) has given or accepted any portion of any charge
17 made or received for the rendering of a real estate
18 settlement service in connection with a transaction other
19 than for services actually performed;

20 (5.3) has disbursed funds prior to the actual delivery
21 of funds acceptable to the closing and settlement services
22 agent;

23 (5.4) has disbursed of closing and settlement services
24 funds before all necessary conditions of the transaction
25 have been met;

26 (5.5) has paid for, furnished or offered to pay for or

1 furnish any reward or compensation for any past, present,
2 or future title insurance business or closing and
3 settlement services or any other title business,
4 including, but not limited to, the payment of a fee to an
5 attorney for the referral of title business;

6 (5.6) has paid or offered to pay any fee to a producer
7 of title business for making an inspection or appraisal of
8 property;

9 (5.7) has received securities of the title insurance
10 company, title insurance agent, or independent escrowee at
11 prices below the normal market price, or bonds or
12 debentures that guarantee a higher than normal interest
13 rate, whether or not the consummation of the transaction is
14 directly or indirectly related to the number of closing and
15 settlement services or title orders coming to the title
16 insurance company, title insurance agent or independent
17 escrowee through the efforts of that person;

18 (5.8) has furnished to any producer of title business
19 or associate of a producer reports containing publicly
20 recorded information, appraisals, estimates of income
21 production potential, information kits, or similar
22 packages containing information about one or more parcels
23 of real property helpful to any producer of title business
24 without making a charge that is commensurate with the
25 actual cost of the work performed and the material
26 furnished; Additionally:

1 (A) There must be a written service agreement
2 between a title agent and any entity providing any
3 closing, title, or ancillary related services on
4 behalf of a title agent. Pursuant to this written
5 service agreement, a service fee must be charged to the
6 title agent and paid by the title agent to the service
7 provider. The service fee charge is in addition to any
8 search fee charged to the title agent and cannot be
9 added on to the charges to the seller, buyer, borrower,
10 or lender. The charge for a service fee shall be no
11 less than \$350; and

12 (B) Pursuant to an agency agreement or service
13 agreement, the cost of searches procured on behalf of
14 the title agent must be charged to the title agent and
15 paid by the title agent to the provider of such
16 searches in an amount commensurate with the actual cost
17 of the work performed and the furnished. The search fee
18 charge is in addition to any service fee charged to the
19 title agent and cannot be added on to the charges to
20 the seller, buyer, borrower, or lender.

21 (5.9) has made or guaranteed or has offered to make or
22 guarantee, either directly or indirectly, any loan to any
23 producer of title business or associate of a producer with
24 terms more favorable than otherwise available to the
25 producer;

26 (5.10) has guaranteed, or offered to guarantee the

1 proper performance of closing and settlement services or
2 undertakings that are to be performed by any producer of
3 title business, except as authorized pursuant to Section 16
4 and 16.1 of this Act;

5 (5.11) has provided, or offered to provide, either
6 directly or indirectly, a compensating balance or deposit
7 in a lending institution either for the express or implied
8 purpose of influencing the placement or channeling of title
9 insurance business by the lending institution; this
10 provision does not prohibit the maintenance by a title
11 insurance company, title agent, or independent escrowee of
12 demand deposits or escrow deposits that are reasonably
13 necessary for use in the ordinary course of the business of
14 the title insurance company, title agent, or independent
15 escrowee;

16 (5.12) has paid for or offered to pay for the fees or
17 charges of an outside professional, such as an attorney,
18 engineer, appraiser, or surveyor, whose services are
19 required by any producer of title business to structure or
20 complete a particular transaction;

21 (5.13) has provided or offered to provide non-title
22 services, such as computerized bookkeeping, forms
23 management, computer programming, or any similar benefit,
24 without a charge that is commensurate with the actual cost
25 to any producer of title business or to any associate of a
26 producer of title business;

1 (5.14) has furnished, or offered to furnish all or any
2 part of the time or productive effort of any employee of
3 the title insurance company, title insurance agent, or
4 independent escrowee, such as office manager, escrow
5 officer, secretary, clerk, or messenger, to any producer of
6 the title business or associate of a producer of title
7 business;

8 (5.15) has paid for or offered to pay for all or any
9 part of the salary of an employee of any producer of title
10 business;

11 (5.16) was paid for or offered to pay for the salary or
12 any part of the salary of a relative of any producer of
13 title business if that payment is in excess of the
14 reasonable value of work performed by the relative on
15 behalf of the title insurance company, title insurance
16 agent or independent escrowee;

17 (5.17) has paid for or offered to pay for services by
18 any producer of title business that are ordinarily to be
19 performed by the producer of title business in his or her
20 licensed capacity as a real estate or mortgage broker or
21 salesman or agent;

22 (5.18) has furnished or offered to furnish, or paid for
23 or offered to pay for, furniture, office supplies,
24 telephones, facsimile machines, equipment, or automobiles
25 to any producer of title business, or has paid for or
26 offered to pay for any portion of the cost of renting,

1 leasing, operating or maintaining any of these items;

2 (5.19) has paid for, furnished, or waived, or offered
3 to pay for, furnish, or waive all or any part of the rent
4 for space occupied by any producer of title business;

5 (5.20) has rented or offered to rent space from any
6 producer of title business, regardless of the purpose, at a
7 rent that is excessive when compared with rents for
8 comparable space in the geographic area, or has paid or
9 offered to pay rent based in whole or in part on the volume
10 of business generated by any producer of title business;

11 (5.21) has paid for or offered to pay for gifts,
12 vacations, business trips, convention expenses, travel
13 expenses, membership fees, registration fees, lodging, or
14 meals on behalf of a producer of title insurance, directly
15 or indirectly, or supplied letters of credit, credit cards,
16 or any such benefits;

17 (5.22) has paid for or offered to pay for the
18 cancellation fee for a title report or other fee on behalf
19 of any producer of title business either before or after
20 inducing the producer of title business to cancel an order
21 with another title insurance company, title insurance
22 agent, or independent escrowee;

23 (5.23) has paid for, furnished, or offered to pay for
24 or furnish any business form to any producer of title
25 business, other than a form regularly used in the conduct
26 of the title insurance company's business, that is

1 furnished for the convenience of the title insurance
2 company and does not constitute a direct monetary benefit
3 to any producer of title business;

4 (5.24) has given trading stamps, cash redemption
5 coupons, or similar items to any producer of title
6 business;

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

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

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

19 (9) has been disciplined by another state, the District
20 of Columbia, a territory, foreign nation, a governmental
21 agency, or any entity authorized to impose discipline if at
22 least one of the grounds for that discipline is the same as
23 or equivalent to one of the grounds for which a title
24 insurance company, title insurance agent, or independent
25 escrowee may be disciplined under this Act or if at least
26 one of the grounds for that discipline involves dishonesty;

1 a certified copy of the record of the action by the other
2 state or jurisdiction shall be prima facie evidence
3 thereof;

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

6 (11) has knowingly and willfully made any substantial
7 misrepresentation or untruthful advertising;

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

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

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

17 (15) has violated the terms of a disciplinary order
18 issued by the Department;

19 (16) has disregarded or violated any provision of this
20 Act or the published rules adopted by the Department to
21 enforce this Act or has aided or abetted any individual,
22 partnership, registered limited liability partnership,
23 limited liability company, or corporation in disregarding
24 any provision of this Act or the published rules; or

25 (17) has acted as a title insurance company, title
26 insurance agent, or independent escrowee without a

1 certificate of authority, registration, or license after
2 the title insurance company, title insurance agent, or
3 independent escrowee's certificate of authority,
4 registration, or license was inoperative.

5 (a-1) Nothing in subsection (a) shall be construed as
6 prohibiting:

7 (1) publishing or printing and disseminating any
8 educational information, notwithstanding that the
9 information may be of benefit to a producer of title
10 business;

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

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

26 (4) the payment of a fee:

1 (A) that bears a reasonable relationship to the
2 value of the services rendered or performed;

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

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

8 (iii) by a lender to its duly appointed agent
9 for services actually performed in the making of a
10 loan; and

11 (B) to a settlement service provider for services
12 outside of the normal scope of that provider's services
13 to the parties to the transaction;

14 (5) the payment of a bona fide salary or compensation
15 or other payment for goods or facilities actually furnished
16 or for services actually performed, so long as the salary,
17 compensation, or other payment bears a reasonable
18 relationship to the value of the services, goods, or
19 facilities;

20 (6) proportionate returns on an ownership or franchise
21 interest;

22 (7) ordinary and customary business entertainment or
23 promotional activities with reasonable frequency not to
24 exceed \$100 in value per person, per event by title
25 insurance companies, title insurance agents, or
26 independent escrowees that are not directly or indirectly

1 consideration as an inducement or compensation for the
2 referral of title business or for the referral of any
3 escrow or other service from a title insurance company,
4 title insurance agent, or independent escrowee.

5 (b) In every case where a registration or certificate is
6 suspended or revoked, or an application for a registration or
7 certificate or renewal thereof is refused, the Secretary shall
8 serve notice of his action, including a statement of the
9 reasons for his action, as provided by this Act. When a notice
10 of suspension or revocation of a certificate of authority is
11 given to a title insurance company, the Secretary shall also
12 notify all the registered agents of that title insurance
13 company of the Secretary's action.

14 (c) In the case of a refusal to issue or renew a
15 certificate or accept a registration, the applicant or
16 registrant may request in writing, within 30 days after the
17 date of service, a hearing. In the case of a refusal to renew,
18 the expiring registration or certificate shall be deemed to
19 continue in force until 30 days after the service of the notice
20 of refusal to renew, or if a hearing is requested during that
21 period, until a final order is entered pursuant to such
22 hearing.

23 (d) The suspension or revocation of a registration or
24 certificate shall take effect upon service of notice thereof.
25 The holder of any such suspended registration or certificate
26 may request in writing, within 30 days of such service, a

1 hearing.

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

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

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

26 (h) The Secretary may issue a cease and desist order to a

1 title insurance company, agent, or other entity doing business
2 without the required license or registration, when in the
3 opinion of the Secretary, the company, agent, or other entity
4 is violating or is about to violate any provision of this Act
5 or any law or of any rule or condition imposed in writing by
6 the Department.

7 The Secretary may issue the cease and desist order without
8 notice and before a hearing.

9 The Secretary shall have the authority to prescribe rules
10 for the administration of this Section.

11 If it is determined that the Secretary had the authority to
12 issue the cease and desist order, he may issue such orders as
13 may be reasonably necessary to correct, eliminate or remedy
14 such conduct.

15 Any person or company subject to an order pursuant to this
16 Section is entitled to judicial review of the order in
17 accordance with the provisions of the Administrative Review
18 Law.

19 The powers vested in the Secretary by this Section are
20 additional to any and all other powers and remedies vested in
21 the Secretary by law, and nothing in this Section shall be
22 construed as requiring that the Secretary shall employ the
23 powers conferred in this Section instead of or as a condition
24 precedent to the exercise of any other power or remedy vested
25 in the Secretary.

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

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

2 Sec. 23. Violation; penalties; actual damages; injunctive
3 relief.

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

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

12 (c) A person who violates the prohibitions or limitations
13 of subsection (a) of Section 21 shall be liable to the person
14 or persons charged for the settlement service involved in the
15 violation for actual damages.

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

22 (e) ~~(b)~~ Nothing contained in this Section shall affect the
23 right of the Secretary to revoke or suspend a title insurance
24 company's, title insurance agent's, or independent escrowee's
25 certificate of authority ~~or a title insurance agent's~~

1 ~~registration~~ under any other Section of this Act.

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

3 (215 ILCS 155/19 rep.)

4 (215 ILCS 155/24 rep.)

5 (215 ILCS 155/25 rep.)

6 Section 10. The Title Insurance Act is amended by repealing
7 Sections 19, 24, and 25.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law, except that Section 18.2 of the Title Insurance
10 Act take effect September 1, 2020."