



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4972

Introduced 1/27/2022, by Rep. Eva Dina Delgado

SYNOPSIS AS INTRODUCED:

15 ILCS 505/20
15 ILCS 505/40 new
30 ILCS 500/30-60 new
215 ILCS 155/17

from Ch. 73, par. 1417

Amends the State Treasurer Act. Provides that administrative charges from the investment or safekeeping of funds by the State Treasurer shall be charged no more than monthly and the total amount charged per fiscal year shall not exceed \$14,500,000 (currently, \$12,000,000) plus any amounts required as employer contributions. Provides that the State Treasurer may invest in a commercial note from a State vendor in the amount of 50% to 100% of any invoice to be paid by the Capital Development Board or a pay item with the Department of Transportation for work already completed. Provides further requirements concerning State Treasurer commercial note investment. Amends the Illinois Procurement Code. Provides that all construction contracts with the State for which the State Treasurer invests a commercial note shall require the prime contractor to designate an independent escrowee operating as a construction disbursement provider to receive funds directly from the Comptroller and that the construction disbursement provider shall provide a certified copy of each disbursement record to the contracting State agency. Amends the Title Insurance Act. In provisions concerning independent escrowees, provides that an independent escrowee may operate as a construction disbursement provider. Provides further requirements for independent escrowees that operate as a construction disbursement provider. Provides that an individual receiving wages or payment for labor under a disbursement shall be individually recorded to ensure all wages are paid.

LRB102 24152 RJF 33378 b

1 AN ACT concerning finance.

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 Financing
5 Vendor Business Growth Correctly Act.

6 Section 5. The State Treasurer Act is amended by changing
7 Section 20 and by adding Section 40 as follows:

8 (15 ILCS 505/20)

9 Sec. 20. State Treasurer administrative charge. The State
10 Treasurer may retain an administrative charge for both the
11 costs of services associated with the deposit of moneys that
12 are remitted directly to the State Treasurer and the
13 investment or safekeeping of funds by the State Treasurer. The
14 administrative charges collected under this Section shall be
15 deposited into the State Treasurer's Administrative Fund. The
16 amount of the administrative charges may be determined by the
17 State Treasurer. Administrative charges from the deposit of
18 moneys remitted directly to the State Treasurer shall not
19 exceed 2% of the amount deposited. Administrative charges from
20 the investment or safekeeping of funds by the State Treasurer
21 shall be charged no more than monthly and the total amount
22 charged per fiscal year shall not exceed \$14,500,000

1 ~~\$12,000,000~~ plus any amounts required as employer
2 contributions under Section 14-131 of the Illinois Pension
3 Code and Section 10 of the State Employees Group Insurance Act
4 of 1971.

5 Administrative charges for the deposit of moneys shall
6 apply to fines, fees, or other amounts remitted directly to
7 the State Treasurer by circuit clerks, county clerks, and
8 other entities for deposit into a fund in the State treasury.
9 Administrative charges for the deposit of moneys do not apply
10 to ~~amounts remitted by State agencies or~~ certified collection
11 specialists as defined in 74 Ill. Admin. Code 1200.50.
12 Administrative charges for the deposit of moneys shall apply
13 only to any form of fines, fees, or other collections created
14 on or after August 15, 2014 (the effective date of Public Act
15 98-965).

16 Moneys in the State Treasurer's Administrative Fund are
17 subject to appropriation by the General Assembly.

18 (Source: P.A. 100-587, eff. 6-4-18.)

19 (15 ILCS 505/40 new)

20 Sec. 40. State Treasurer commercial note investment. The
21 State Treasurer may invest in a commercial note from a State
22 vendor in the amount of 50% to 100% of any invoice to be paid
23 by the Capital Development Board or a pay item with the
24 Department of Transportation for work already completed. The
25 commercial note shall be either the actual invoice approved by

1 the project architect and submitted to the Capital Development
2 Board or the pay item submitted and approved by a resident
3 engineer of the Department of Transportation, or a copy
4 thereof. The State Treasurer may require proof of work
5 completed or other documentation. The State Treasurer may
6 invest in the commercial note and collect interest and
7 administrative fees pursuant to Section 20. If any amount is
8 deducted from payments made by the State with respect to any
9 commercial note investment under this Section due to the
10 State's exercise of any offset or other contractual rights
11 against a State vendor, including statutorily required
12 administrative fees imposed pursuant to the State Comptroller
13 Act, the State vendor shall still be required to pay the
14 commercial note in full to the State Treasurer. The State
15 Treasurer may retain any third-party to carry out the terms of
16 this Section. The State vendor must comply with the terms of
17 the commercial note investment and assign rights to payment
18 from the Capital Development Board or Department of
19 Transportation to the Treasurer or third-party retained by the
20 Treasurer. The interest and fees shall be set by the State
21 Treasurer. Commercial note investments shall be public records
22 and the State Treasurer shall post the terms on the State
23 Treasurer's official website.

24 The State Treasurer may terminate immediately any
25 commercial note investment made under this Section if the
26 Capital Development Board or the Department of Transportation

1 determine that the State vendor has not complied with the
2 terms of its contract. Upon termination of a commercial note
3 investment, the State vendor must immediately repay the
4 commercial note investment, with any interest earned.

5 Actions taken pursuant to this Section shall not
6 constitute government knowledge or acceptance of any conduct,
7 and shall not limit the rights and remedies provided for under
8 the Illinois False Claims Act or the federal False Claims Act.

9 Section 10. The Illinois Procurement Code is amended by
10 adding Section 30-60 as follows:

11 (30 ILCS 500/30-60 new)

12 Sec. 30-60. Construction disbursement provider.

13 (a) All construction contracts with this State entered
14 into after the effective date of this amendatory Act of the
15 102nd General Assembly shall require the prime contractor to
16 designate an independent escrowee operating as a construction
17 disbursement provider under subsection (i) of Section 17 of
18 the Title Insurance Act to receive funds directly from the
19 Comptroller.

20 (b) The construction disbursement provider shall provide a
21 certified copy of each disbursement record to the contracting
22 State agency.

23 (c) The requirements of this Section shall only apply to
24 State construction contracts in which the State Treasurer

1 invests a commercial note as provided under Section 40 of the
2 State Treasurer Act.

3 Section 15. The Title Insurance Act is amended by changing
4 Section 17 as follows:

5 (215 ILCS 155/17) (from Ch. 73, par. 1417)

6 Sec. 17. Independent escrowees.

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

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

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

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

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

23 (1) Funds deposited in connection with any escrow,
24 settlement, or closing shall be deposited in a separate

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

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

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

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

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

26 (g) A title insurance company or title insurance agent,

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

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

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

1 (2) Files with and has approved by the Secretary proof
2 of a fidelity bond in the minimum amount of \$2,000,000 per
3 occurrence.

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

21 (4) Releases from the statutory closing protection
22 letter reserve a sum equal to 10% of the amount added to
23 the reserve during a calendar year on July 1 of each of the
24 5 years following the year in which the sum was added and
25 releases from the statutory closing protection letter
26 reserve a sum equal to 3 1/3% of the amount added to the

1 reserve during that year on each succeeding July 1 until
2 the entire amount for that year has been released.

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

7 (i) An independent escrowee may operate as a construction
8 disbursement provider. An independent escrowee that operates
9 as a construction disbursement provider shall certify that all
10 funds distributed to and from the independent escrowee have
11 been in fact received and distributed to the proper parties,
12 including all subcontractors, suppliers, and employees or
13 independent contractors who perform labor for any contractor
14 who received funds from a disbursement. An independent
15 escrowee that operates as a construction disbursement provider
16 shall maintain a record of every disbursement with proof that
17 the funds were disbursed to accounts controlled by a party
18 entitled to funds from a disbursement. An individual receiving
19 wages or payment for labor under a disbursement shall be
20 individually recorded to ensure all wages are paid. All funds
21 shall be distributed to all parties on the same day payment is
22 received by the independent escrowee operating as a
23 construction disbursement provider. An independent escrowee
24 operating as a construction disbursement provider shall issue
25 a certified disbursement record for every disbursement that
26 includes all payments received and made.

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