



Sen. Michael Connelly

Filed: 5/4/2016

09900SB2688sam002

LRB099 16929 EGJ 48105 a

1 AMENDMENT TO SENATE BILL 2688

2 AMENDMENT NO. _____. Amend Senate Bill 2688 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Title Insurance Act is amended by changing
5 Sections 12 and 21 as follows:

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

7 Sec. 12. Examinations; compliance.

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

13 (b) The Secretary or his authorized agent shall have power
14 and authority to visit and examine any registered title
15 insurance agent doing business under this Act and to verify and
16 compel compliance with the provisions of law governing the

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

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

16 (215 ILCS 155/21) (from Ch. 73, par. 1421)

17 Sec. 21. Regulatory action.

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

23 (1) has intentionally made a material misstatement or
24 fraudulent misrepresentation in relation to a matter
25 covered by this Act;

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

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

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

10 (5) has paid any commissions, discounts or any part of
11 its premiums, fees or other charges to any person in
12 violation of any State or federal law or regulations or
13 opinion letters issued under the federal Real Estate
14 Settlement Procedures Act of 1974, or has accepted a title
15 order with knowledge that the order was placed by a
16 settlement service provider or lawyer in exchange for the
17 express or implicit promise that a consumer will be
18 referred to that provider for settlement or legal services
19 in exchange for the title order;

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

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

26 (8) has a conviction or plea of guilty or plea of nolo

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

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

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

19 (11) has knowingly and willfully made any substantial
20 misrepresentation or untruthful advertising;

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

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

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

4 (15) has violated the terms of a disciplinary order
5 issued by the Department;

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

12 (17) has acted as a title insurance company, title
13 insurance agent, or independent escrowee without a
14 certificate of authority, registration, or license after
15 the title insurance company, title insurance agent, or
16 independent escrowee's certificate of authority,
17 registration, or license was inoperative;~~or~~

18 (18) has, as a title insurance agent, failed to pay to
19 the title insurance company a portion of the title
20 insurance premium that is reasonably related to exposure to
21 loss; or

22 (19) has, as a title insurance company, failed to
23 obtain a portion of the title insurance premium from the
24 title insurance agent that is reasonably related to
25 exposure to loss.

26 (b) In every case where a registration or certificate is

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

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

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

23 (e) In cases of suspension or revocation of registration
24 pursuant to subsection (a), the Secretary may, in the public
25 interest, issue an order of suspension or revocation which
26 shall take effect upon service of notification thereof. Such

1 order shall become final 60 days from the date of service
2 unless the registrant requests in writing, within such 60 days,
3 a formal hearing thereon. In the event a hearing is requested,
4 the order shall remain temporary until a final order is entered
5 pursuant to such hearing.

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

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

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

1 the Department.

2 The Secretary may issue the cease and desist order without
3 notice and before a hearing.

4 The Secretary shall have the authority to prescribe rules
5 for the administration of this Section.

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

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

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

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