

1 AN ACT concerning title insurance.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Title Insurance Act is amended by
5 changing Sections 4, 5, 9, 11, 12, 13, 14, 16, 17, 21, and 23
6 and adding Section 21.1 as follows:

7 (215 ILCS 155/4) (from Ch. 73, par. 1404)

8 Sec. 4. Bonds and deposits.

9 (a) Each year before doing business in the State of
10 Illinois, a title insurance company must file with and have
11 approved by the Director a surety bond issued by a bonding
12 company, in which the company has no financial interest, that
13 is authorized to do business in this State and that has a
14 rating in one of the 3 highest grades as determined by a
15 national rating service. The bond shall run to the Director
16 and shall be for the benefit of any holder of a policy issued
17 by the title insurance company or the beneficiary of an
18 escrow accepted by the title insurance company.

19 (b) The surety bond must be in the principal sum of
20 \$100,000 plus \$5,000 for each county, more than one, in which
21 the real estate, upon which its policies are issued, is
22 located, to a maximum amount of \$500,000. A title insurance
23 company guaranteeing or insuring titles to real estate in
24 counties having 500,000 or more inhabitants must, in addition
25 to filing the required surety bond, deposit with the
26 Department cash or bonds of the United States, this State, or
27 any body politic of this State in the amount of \$500,000 for
28 the benefit of any holder of a policy it issued or
29 beneficiary of an escrow it accepted. The deposit shall not
30 be otherwise pledged or subject to distribution among
31 creditors or stockholders.

1 (c) The Director may provide for custody of the deposits
 2 by any trust company or bank located in this State and
 3 qualified to do business under the Corporate Fiduciary Act.
 4 The compensation, if any, of the custodian shall be paid by
 5 the depositing company. When the required deposits have been
 6 made by a title insurance company, the Director shall certify
 7 that the company has complied with the provisions of this
 8 Section and is authorized to transact the business of
 9 insuring and guaranteeing titles to real estate.

10 (d) If, at any time, a title insurance company causes
 11 all of its unexpired policies, escrow deposits, and
 12 reinsurance obligations to be paid in full, cancelled,
 13 discharged, reinsured, or otherwise assumed by another title
 14 insurance company authorized to do business under this Act,
 15 the Director shall, upon application of the company, verified
 16 by the oath of its president or secretary, and upon being
 17 satisfied by an examination of its books and its officers
 18 under oath that all of its policies are paid in full,
 19 cancelled, discharged, reinsured, or otherwise assumed,
 20 authorize the release of any bond or deposit posted under
 21 this Section.

22 (e) The Director may revoke the certificate of a company
 23 that fails to maintain the surety bond or deposit required by
 24 this Section. The Director shall mail a copy of that
 25 revocation to the company, and during the time of the
 26 revocation, the company may not conduct a title insurance
 27 business. A revocation shall not be set aside until a good
 28 and sufficient bond or deposit, or both, has been filed with
 29 the Department and the company has fulfilled all requirements
 30 of this Act.

31 ~~(a) Every title insurance company licensed or qualified~~
 32 ~~to do business in this State shall, within 30 days after the~~
 33 ~~effective date of this Act or within 30 days after~~
 34 ~~incorporated or licensed to do business, whichever is later,~~

1 deposit-with-the-Department, -for-the-benefit-of-the-creditors
2 of-the-company-by-reason-of-any-policy-issued-by-it, -bonds-of
3 the--United--States, --this--State-or-any-body-politic-of-this
4 State-in-amounts-as-specified-in-subsection-(b). --The--bonds
5 and--securities--so-deposited-may-be-exchanged-for-other-such
6 securities. --No-such--bond--or--security--shall--be--sold--or
7 transferred--by--the--Director-except-on-order-of-the-circuit
8 court-or-as-provided-in--subsection--(d). --As--long--as--the
9 company--depositing--such--securities--remains--solvent, --the
10 company--shall--be-permitted-to-receive-from-the-Director-the
11 interest-on-such-deposit.

12 (b) --Every-title-insurance-company-shall-deposit-bonds-or
13 securities-in-the-sum-of-\$50,000-plus-\$5,000-for-each-county,
14 more-than-one, -in-which-the--real--estate, --upon--which--such
15 policies--are--issued, --is--located, --to--maximum--deposit-of
16 \$500,000. --Every--title--insurance--company--guaranteeing--or
17 insuring--titles-to-real-estate-in-counties-having-500,000-or
18 more-inhabitants-shall-deposit-securities-with-the-Department
19 in-the-sum-of-\$500,000. --Any-title-insurance--company--having
20 deposited-\$500,000-in-securities-with-the-Department-shall-be
21 entitled-to-guarantee-or-insure-titles-in-any-or-all-counties
22 of-the-State.

23 (c) --The--Director--may--provide--for--custody--of--such
24 securities-by-any-trust-company-or-bank-located-in-this-State
25 and-qualified-to-do-business-under--the--Corporate--Fiduciary
26 Act, --as-now-or-hereafter-amended. --The-compensation, -if-any,
27 of-such-custodian-shall-be-paid-by--the--depositing--company.
28 When--the-required-deposit-has-been-made-by-a-title-insurance
29 company, -the-Director-shall-certify-that-it-has-complied-with
30 the-provisions-of-this-Section-and-is-authorized-to--transact
31 the--business--of--insuring--and--guaranteeing-titles-to-real
32 estate.

33 (d) --If-a-title-insurance-company-shall-at-any-time-cause
34 all-of-its--unexpired--policies--to--be--paid, --cancelled--or

1 reinsured--and--all--of--its--liabilities--under--such--policies
 2 thereby--to--be--extinguished,--or--to--be--assumed--by--some--surety
 3 or--other--responsible--company--authorized--to--do--business--in
 4 this--State,--the--Director--shall,--on--application--of--such
 5 company,--verified--by--the--oath--of--its--president--or--secretary
 6 and--on--being--satisfied--by--an--examination--of--its--books--and--its
 7 officers--under--oath--that--all--of--its--policies--are--so--paid,
 8 cancelled,--extinguished--or--reinsured,--deliver--up--to--it--such
 9 securities.

10 (Source: P.A. 86-239.)

11 (215 ILCS 155/5) (from Ch. 73, par. 1405)

12 Sec. 5. Certificate of authority required. It is
 13 unlawful shall-not-be-lawful for any company to engage or to
 14 continue in the business of guaranteeing or insuring titles
 15 to real estate, without first procuring from the Director a
 16 certificate of authority stating that the such a company has
 17 complied with the requirements of Section 4 of this Act. If
 18 any-company-shall-fail-to-maintain-a-deposit-as--required--by
 19 this---Act,--the--Director--may--revoke--the--certificate--of
 20 authority-granted-on-behalf-of-such--company.---The--Director
 21 shall--mail--a--copy--of--that--revocation--to--the--company--and
 22 during--the--time--of--such--revocation--the--company--shall--not
 23 conduct--such--business.---A--revocation--shall--not--be--set--aside
 24 until--a--good--and--sufficient--deposit--shall--have--been--made--with
 25 the--Department,--fulfilling--all--the--requirements--of--this--Act.

26 (Source: P.A. 86-239.)

27 (215 ILCS 155/9) (from Ch. 73, par. 1409)

28 Sec. 9. Impairment of capital; discontinuance of
 29 issuance of new policies; penalty.

30 (a) Whenever the capital of a any title insurance
 31 company authorized to do business under this Act is shall-be
 32 determined by the circuit-court,--upon--the--application--of--the

1 Director, to ~~be~~ have-beeome impaired to the extent of 25% of
 2 the capital same, or to have otherwise become unsafe, it
 3 shall-be-the-duty-of the Director may to cancel the authority
 4 of the such company to do business.

5 (b) The Director shall give notice to the such company
 6 to discontinue issuing new policies until its such capital
 7 has been made good.

8 (c) Any officer who issues a new policy of title
 9 insurance on behalf of a such company after a such notice to
 10 discontinue issuing policies, and before its until--such
 11 capital has been made good, shall, for each offense, be fined
 12 a sum not exceeding \$5,000 forfeit--a--sum-not-exceeding
 13 \$1,000.

14 (Source: P.A. 86-239.)

15 (215 ILCS 155/11) (from Ch. 73, par. 1411)

16 Sec. 11. Statutory premium reserve.

17 (a) A domestic title insurance company shall establish
 18 and maintain a statutory premium reserve computed in
 19 accordance with this Section. The reserve shall be reported
 20 as a liability of the title insurance company in its
 21 financial statements. The statutory premium reserve shall be
 22 maintained by the title insurance company for the protection
 23 of holders of title insurance policies. Except as provided
 24 in this Section, assets equal in value to the statutory
 25 premium reserve are not subject to distribution among
 26 creditors or stockholders of the title insurance company
 27 until all claims of policyholders or claims under
 28 reinsurance contracts have been paid in full,--and--all
 29 liability-on-the-policies-or-reinsurance-contracts--has--been
 30 paid--in--full and discharged, or lawfully reinsured, or
 31 otherwise assumed by another title insurance company
 32 authorized to do business under this Act.

33 (b) A foreign or alien title insurance company

1 authorized to do business under this Act shall maintain at
2 least the same reserves on title insurance policies issued on
3 properties located in this State as are required of domestic
4 title insurance companies.

5 (c) The statutory premium reserve shall consist of:

6 (1) the amount of the statutory premium reserve on
7 January 1, 1990; and

8 (2) a sum equal to 12 1/2 cents for each \$1,000 of
9 net retained liability under each title insurance policy
10 on a single risk written on properties located in this
11 State after January 1, 1990.

12 (d) Amounts placed in the statutory premium reserve in
13 any year in accordance with this Section shall be deducted in
14 determining the net profit of the title insurance company for
15 that year.

16 (e) A title insurance company shall release from the
17 statutory premium reserve a sum equal to 10% of the amount
18 added to the reserve during a calendar year on July 1 of each
19 of the 5 years following the year in which the sum was added,
20 and shall release from the statutory premium reserve a sum
21 equal to 3 1/3% of the amount added to the reserve during
22 that year on each succeeding July 1 until the entire amount
23 for that year has been released. The amount of the statutory
24 premium reserve or similar premium reserve maintained before
25 January 1, 1990, shall be released in accordance with the law
26 in effect before January 1, 1990.

27 (Source: P.A. 86-239; 87-1151.)

28 (215 ILCS 155/12) (from Ch. 73, par. 1412)

29 Sec. 12. Examination; audit.

30 (a) The Director or his authorized representative shall
31 have the power and authority, and it shall be his duty, to
32 cause to be visited and examined annually any title insurance
33 company doing business under this Act, and to verify and

1 compel a compliance with the provisions of law governing it
2 ~~as-he-may-by-law-exercise-in-relation-to-trust-companies.~~

3 (b) The Director or his authorized agent shall have
4 power and authority to compel compliance with the provisions
5 of this Act and shall ~~only-upon-the-showing-of-good-cause,~~
6 require any title insurance company to obtain the appropriate
7 records of its registered agents and make them available for
8 audit at a time and place designated by the Director.
9 Expenses incurred in the course of such audits will be the
10 responsibility of the title insurance company.

11 (Source: P.A. 86-239.)

12 (215 ILCS 155/13) (from Ch. 73, par. 1413)

13 Sec. 13. Annual statement.

14 (a) A Each title insurance company shall file with the
15 Department during the month of March of each year, a
16 statement under oath, of the condition of such company on the
17 thirty-first day of December next preceding disclosing the
18 assets, liabilities, earnings and expenses of the company.
19 The report shall be in such form and shall contain such
20 additional statements and information as to the affairs,
21 business, and conditions of the company as the Director may
22 from time to time prescribe or require.

23 (b) By June 1 of each year, a title insurance company
24 must file with the Department a copy of its audited financial
25 statements.

26 (Source: P.A. 86-239.)

27 (215 ILCS 155/14) (from Ch. 73, par. 1414)

28 Sec. 14. Fees.

29 (a) A Every title insurance company and an every
30 independent escrowee subject to this Act shall pay the
31 following fees:

32 (1) for filing the original application for a

1 certificate of authority and receiving the deposit
2 required under this Act, \$500;

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

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

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

8 (5) for filing the annual statement, \$50; ~~and~~

9 (6) for each examination \$500 per examiner per day
10 or part of a day and actual travel costs incurred.

11 (b) ~~A~~ Each title insurance company shall pay ~~7~~ ~~for all of~~
12 ~~its title insurance agents subject to this Act for filing an~~
13 ~~annual registration of its agents,~~ an amount equal to \$5
14 \$1.00 for each policy issued by it and all of its agents in
15 the immediately preceding calendar year, provided such sum
16 shall not exceed \$75,000 ~~\$20,000~~ per annum.

17 (Source: P.A. 86-239.)

18 (215 ILCS 155/16) (from Ch. 73, par. 1416)

19 Sec. 16. Title insurance agents.

20 (a) No person, firm, partnership, association,
21 corporation or other legal entity shall act as or hold itself
22 out to be a title insurance agent unless duly registered by a
23 title insurance company with the Director. The Director
24 shall impose a fine not to exceed \$1,000 for each violation
25 of this registration requirement.

26 (b) Each application for registration shall be made on a
27 form specified by the Director and prepared in duplicate by
28 each title insurance company which the agent represents. The
29 title insurance company shall retain the copy of the
30 application and forward the original to the Director with the
31 appropriate fee.

32 (c) Every applicant for registration, except a firm,
33 partnership, association or corporation, must be 18 years or

1 more of age.

2 (d) Registration shall be made annually by a filing with
3 the Director; supplemental registrations for new title
4 insurance agents to be added between annual filings shall be
5 made from time to time in the manner provided by the
6 Director; registrations shall remain in effect unless revoked
7 or suspended by the Director or are voluntarily withdrawn by
8 the registrant or the title insurance company.

9 (Source: P.A. 86-239.)

10 (215 ILCS 155/17) (from Ch. 73, par. 1417)

11 Sec. 17. Independent escrowees.

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

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

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

21 (d) Every certificate of authority shall remain in
22 effect one year unless revoked or suspended by the Director
23 or voluntarily surrendered by the holder.

24 (e) An independent escrowee may engage in the escrow,
25 settlement, or closing business, or any combination of such
26 business, and operate as an escrow, settlement, or closing
27 agent, provided that:

28 (1) Funds deposited in connection with any escrow,
29 settlement, or closing shall be deposited in a separate
30 fiduciary trust account or accounts in a bank or other
31 financial institution insured by an agency of the federal
32 government unless the instructions provide otherwise.
33 Such funds shall be the property of the person or persons

1 entitled thereto under the provisions of the escrow,
2 settlement, or closing and shall be segregated by escrow,
3 settlement or closing in the records of the independent
4 escrowee. Such funds shall not be subject to any debts
5 of the escrowee and shall be used only in accordance with
6 the terms of the individual escrow, settlement or closing
7 under which the funds were accepted.

8 (2) Interest received on funds deposited with the
9 independent escrowee in connection with any escrow,
10 settlement or closing shall be paid to the depositing
11 party unless the instructions provide otherwise.

12 (3) The independent escrowee shall maintain
13 separate records of all receipt and disbursement of
14 escrow, settlement or closing funds.

15 (4) The independent escrowee shall comply with any
16 rules or regulations promulgated by the Director
17 pertaining to escrow, settlement or closing transactions.

18 (f) The Director or his authorized representative shall
19 have the power and authority to visit and examine at any time
20 any independent escrowee certified under this Act and to
21 compel compliance with the provisions of this Act.

22 (g) A title insurance company or title insurance agent,
23 not qualified as an independent escrowee, may act in the
24 capacity of an escrow agent when it is supplying an abstract
25 of title, grantor-grantee search, tract search, lien search,
26 tax assessment search, or other limited purpose search to the
27 parties to the transaction even if it is not issuing a title
28 insurance commitment or title insurance policy. A title
29 insurance agent may act as an escrow agent only when
30 specifically authorized in writing on forms prescribed by the
31 Director by a title insurance company that has duly
32 registered the agent with the Director and only when notice
33 of the authorization is provided to and receipt thereof is
34 acknowledged by the Director. The authority granted to a

1 title insurance agent may be limited or revoked at any time
2 by the title insurance company.

3 (h) The Director shall impose a fine not to exceed
4 \$1,000 for each violation of the requirements of this
5 Section.

6 (Source: P.A. 91-159, eff. 1-1-00.)

7 (215 ILCS 155/21) (from Ch. 73, par. 1421)

8 Sec. 21. Regulatory action.

9 (a) The Director may refuse to grant, and may suspend or
10 revoke, any certificate of authority, registration or license
11 issued pursuant to this Act and may fine any registrant or
12 licensee in an amount not exceeding \$10,000 per violation if
13 he determines that the holder of or applicant for such
14 certificate, registration or license:

15 (1) has intentionally made a material misstatement
16 or fraudulent misrepresentation in relation to a matter
17 covered by this Act;

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

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

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

28 (5) has paid any commissions, discounts or any part
29 of its premiums, fees or other charges to any person in
30 violation of any State or federal law or regulations or
31 opinion letters issued under the federal Real Estate
32 Settlement Procedures Act of 1974; or

33 (6) has failed to comply with the deposit and

1 reserve requirements of this Act or any other
2 requirements of this Act.

3 (b) In every case where a registration or certificate is
4 suspended or revoked, or an application for a registration or
5 certificate or renewal thereof is refused, the Director shall
6 serve notice of his action, including a statement of the
7 reasons for his action, either personally or by registered or
8 certified mail. Service by mail shall be deemed completed if
9 such notice is deposited in the post office, postage paid,
10 addressed to the last known address specified in the
11 application for the certificate or registration of such
12 holder or registrant.

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

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

27 (e) In cases of suspension or revocation of registration
28 pursuant to subsection (a), the Director may, in the public
29 interest, issue an order of suspension or revocation which
30 shall take effect upon service of notification thereof. Such
31 order shall become final 60 days from the date of service
32 unless the registrant requests in writing, within such 60
33 days, a formal hearing thereon. In the event a hearing is
34 requested, the order shall remain temporary until a final

1 order is entered pursuant to such hearing.

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

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

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

24 The Director may issue the cease and desist order without
25 notice and before a hearing.

26 The Director shall have the authority to prescribe rules
27 for the administration of this Section.

28 If it is determined that the Director had the authority
29 to issue the cease and desist order, he may issue such orders
30 as may be reasonably necessary to correct, eliminate or
31 remedy such conduct.

32 Any person or company subject to an order pursuant to
33 this Section is entitled to judicial review of the order in
34 accordance with the provisions of the Administrative Review

1 Law.

2 The powers vested in the Director by this Section are
3 additional to any and all other powers and remedies vested in
4 the Director by law, and nothing in this Section shall be
5 construed as requiring that the Director shall employ the
6 powers conferred in this Section instead of or as a condition
7 precedent to the exercise of any other power or remedy vested
8 in the Director.

9 (Source: P.A. 89-601, eff. 8-2-96.)

10 (215 ILCS 155/21.1 new)

11 Sec. 21.1. Receiver and involuntary liquidation.

12 (a) The proceedings under this Section shall be the
13 exclusive remedy and the only proceedings commenced in any
14 court for the dissolution of, the winding up of the affairs
15 of, or the appointment of a receiver for a title insurance
16 company.

17 (b) If the Director, with respect to a title insurance
18 company, finds that (1) its capital is impaired or it is
19 otherwise in an unsound condition, (2) its business is being
20 conducted in an unlawful, fraudulent, or unsafe manner, (3)
21 it is unable to continue operations, or (4) its examination
22 has been obstructed or impeded, the Director may give notice
23 to the board of directors of the title insurance company of
24 his finding or findings. If the Director's finding is not
25 corrected to his or her satisfaction within 60 days after the
26 company receives the notice, the Director shall take
27 possession and control of the title insurance company, its
28 assets, and assets held by it for any person for the purpose
29 of examination, reorganization, or liquidation through
30 receivership.

31 If, in addition to making a finding as provided in item
32 (1), (2), (3), or (4), the Director is of the opinion and
33 finds that an emergency that may result in serious losses to

1 any person exists, the Director may, in his or her
2 discretion, without having given the notice provided for this
3 subsection, and whether or not proceedings under subsection
4 (a) of this Section have been instituted or are then pending,
5 take possession and control of the title insurance company
6 and its assets for the purpose of examination,
7 reorganization, or liquidation through receivership.

8 (c) The Director may take possession and control of a
9 title insurance company, its assets, and assets held by it
10 for any person by posting upon the premises of each office at
11 which it transacts its business as a title insurance company
12 a notice reciting that the Director is assuming possession
13 pursuant to this Act and the time when the possession shall
14 be deemed to commence.

15 (d) Promptly after taking possession and control of a
16 title insurance company the Director, represented by the
17 Attorney General, shall file a copy of the notice posted upon
18 the premises in the Circuit Court of either Cook County or
19 Sangamon County, Illinois, which cause shall be entered as a
20 court action upon the dockets of the court under the name and
21 style of "In the matter of the possession and control by the
22 Director of the Department of Financial Institutions of
23 (insert the name of the title insurance company)". If the
24 Director determines (which determination may be made at the
25 time of, or at any time subsequent to, taking possession and
26 control of a title insurance company) that no practical
27 possibility exists to reorganize the title insurance company
28 after reasonable efforts have been made, the Director,
29 represented by the Attorney General shall also file a
30 complaint, if it has not already been done, for the
31 appointment of a receiver or such other proceeding as is
32 appropriate under the circumstances. The court where the
33 cause is docketed shall be vested with the exclusive
34 jurisdiction to hear and determine all issues and matters

1 pertaining to or connected with the Director's possession and
2 control of the title insurance company as provided in this
3 Act, and any further issues and matters pertaining to or
4 connected with the Director's possession and control as may
5 be submitted to the court for its adjudication.

6 The Director, upon taking possession and control of a
7 title insurance company, may, and if not previously done,
8 shall immediately upon filing a complaint for dissolution
9 make an examination of the affairs of the title insurance
10 company or appoint a suitable person to make the examination
11 as the Director's agent. The examination shall be conducted
12 in accordance with and pursuant to the authority granted
13 under Section 12 of this Act. The person conducting the
14 examination shall have and may exercise on behalf of the
15 Director all of the powers and authority granted to the
16 Director under Section 12. A copy of the report shall be
17 filed in any dissolution proceeding filed by the Director.
18 The reasonable fees and necessary expenses of the examining
19 person, as approved by the Director or as recommended by the
20 Director and approved by the court if a dissolution
21 proceeding has been filed, shall be borne by the subject
22 title insurance company and shall have the same priority for
23 payment as the reasonable and necessary expenses of the
24 Director in conducting an examination. The person appointed
25 to make the examination shall make a proper accounting, in
26 the manner and scope as determined by the Director to be
27 practical and advisable under the circumstances, on behalf of
28 the title insurance company and no guardian ad litem need be
29 appointed to review the accounting.

30 (e) The Director, upon taking possession and control of
31 a title insurance company and its assets, shall be vested
32 with the full powers of management and control including, but
33 not limited to, the following:

34 (1) the power to continue or to discontinue the

1 business;

2 (2) the power to stop or to limit the payment of
3 its obligations;

4 (3) the power to collect and to use its assets and
5 to give valid receipts and acquittances therefor;

6 (4) the power to transfer title and liquidate any
7 bond or deposit made under Section 4 of this Act;

8 (5) the power to employ and to pay any necessary
9 assistants;

10 (6) the power to execute any instrument in the name
11 of the title insurance company;

12 (7) the power to commence, defend, and conduct in
13 its name any action or proceeding in which it may be a
14 party;

15 (8) the power, upon the order of the court, to sell
16 and convey its assets, in whole or in part, and to sell
17 or compound bad or doubtful debts upon such terms and
18 conditions as may be fixed in that order;

19 (9) the power, upon the order of the court, to make
20 and to carry out agreements with other title insurance
21 companies, financial institutions, or with the United
22 States or any agency of the United States for the payment
23 or assumption of the title insurance company's
24 liabilities, in whole or in part, and to transfer assets
25 and to make guaranties, in whole or in part, in
26 connection therewith;

27 (10) the power, upon the order of the court, to
28 borrow money in the name of the title insurance company
29 and to pledge its assets as security for the loan;

30 (11) the power to terminate his or her possession
31 and control by restoring the title insurance company to
32 its board of directors;

33 (12) the power to appoint a receiver which may be
34 the Office of the Director of the Department of Financial

1 Institutions, another title insurance company, or another
2 suitable person and to order liquidation of the title
3 insurance company as provided in this Act; and

4 (13) the power, upon the order of the court and
5 without the appointment of a receiver, to determine that
6 the title insurance company has been closed for the
7 purpose of liquidation without adequate provision being
8 made for payment of its obligations, and thereupon the
9 title insurance company shall be deemed to have been
10 closed on account of inability to meet its obligations to
11 its insureds or escrow depositors.

12 (f) Upon taking possession, the Director shall make an
13 examination of the condition of the title insurance company,
14 an inventory of the assets and, unless the time shall be
15 extended by order of the court or unless the Director shall
16 have otherwise settled the affairs of the title insurance
17 company pursuant to the provisions of this Act, within 90
18 days after the time of taking possession and control of the
19 title insurance company, the Director shall either terminate
20 his possession and control by restoring the title insurance
21 company to its board of directors or appoint a receiver which
22 may be the Office of the Director of the Department of
23 Financial Institutions, another title insurance company, or
24 another suitable person and order the liquidation of the
25 title insurance company as provided in this Act. All
26 necessary and reasonable expenses of the Director's
27 possession and control shall be a priority claim and shall be
28 borne by the title insurance company and may be paid by the
29 Director from the title insurance company's own assets as
30 distinguished from assets held for any other person.

31 (g) If the Director takes possession and control of a
32 title insurance company and its assets, any period of
33 limitation fixed by a statute or agreement that would
34 otherwise expire on a claim or right of action of the title

1 insurance company, on its own behalf or on behalf of its
2 insureds or escrow depositors, or upon which an appeal must
3 be taken or a pleading or other document must be filed by the
4 title insurance company in any pending action or proceeding
5 shall be tolled until 6 months after the commencement of the
6 possession, and no judgment, lien, levy, attachment, or other
7 similar legal process must be enforced upon or satisfied, in
8 whole or in part, from any asset of the title insurance
9 company or from any asset of an insured or escrow depositor
10 while it is in the possession of the Director.

11 (h) If the Director appoints a receiver to take
12 possession and control of the assets of insureds or escrow
13 depositors for the purpose of holding those assets as
14 fiduciary for the benefit of the insureds or escrow
15 depositors pending the winding up of the affairs of the title
16 insurance company being liquidated and the appointment of a
17 successor escrowee for those assets, any period of limitation
18 fixed by statute, rule of court, or agreement that would
19 otherwise expire on a claim or right of action in favor of or
20 against the insureds or escrow depositors of those assets or
21 upon which an appeal must be taken or a pleading or other
22 document must be filed by a title insurance company on
23 behalf of an insured or escrow depositor in any pending
24 action or proceeding shall be tolled for a period of 6 months
25 after the appointment of a receiver, and no judgment, lien,
26 levy, attachment, or other similar legal process shall be
27 enforced upon or satisfied, in whole or in part, from any
28 asset of the insured or escrow depositor while it is in the
29 possession of the receiver.

30 (i) If the Director determines at any time that no
31 reasonable possibility exists for the title insurance company
32 to be operated by its board of directors in accordance with
33 the provisions of this Act after reasonable efforts have been
34 made and that it should be liquidated through receivership,

1 he or she shall appoint a receiver. The Director may require
2 of the receiver such bond and security as the Director deems
3 proper. The Director, represented by the Attorney General,
4 shall file a complaint for the dissolution or winding up of
5 the affairs of the title insurance company in a court of the
6 county in which the principal office of the title insurance
7 company is located and shall cause notice to be given in a
8 newspaper of general circulation once each week for 4
9 consecutive weeks so that persons who may have claims against
10 the title insurance company may present them to the receiver
11 and make legal proof thereof and notifying those persons and
12 all to whom it may concern of the filing of a complaint for
13 the dissolution or winding up of the affairs of the title
14 insurance company and stating the name and location of the
15 court. All persons who may have claims against the assets of
16 the title insurance company, as distinguished from the assets
17 of insureds and escrow depositors held by the title insurance
18 company, and the receiver to whom those persons have
19 presented their claims may present them to the clerk of the
20 court, and the allowance or disallowance of the claims by the
21 court in connection with the proceedings shall be deemed an
22 adjudication in a court of competent jurisdiction. The
23 receiver shall file with the court a correct list of all
24 creditors of the title insurance company as shown by its
25 books, who have not presented their claims and the amount of
26 their respective claims after allowing adjusted credit,
27 deductions, and set-offs as shown by the books of the title
28 insurance company. The claims so filed shall be deemed
29 proven unless objections are filed thereto by a party or
30 parties interested therein within the time fixed by the
31 court.

32 (j) The receiver for a title insurance company has the
33 power and authority and is charged with the duties and
34 responsibilities as follows:

1 (1) To take possession of and, for the purpose of
2 the receivership, title to the books, records, and assets
3 of every description of the title insurance company.

4 (2) To proceed to collect all debts, dues, and
5 claims belonging to the title insurance company.

6 (3) To sell and compound all bad and doubtful debts
7 on such terms as the court shall direct.

8 (4) To sell the real and personal property of the
9 title insurance company, as distinguished from the real
10 and personal property of the insureds or escrow
11 depositors, on such terms as the court shall direct.

12 (5) To file with the Director a copy of each report
13 which he or she makes to the court, together with such
14 other reports and records as the Director may require.

15 (6) To sue and defend in his or her own name and
16 with respect to the affairs, assets, claims, debts, and
17 choses in action of the title insurance company.

18 (7) To surrender to the insureds and escrow
19 depositors of the title insurance company, when requested
20 in writing directed to the receiver by them, the escrowed
21 funds (on a pro rata basis), and escrowed documents in
22 the receiver's possession upon satisfactory proof of
23 ownership and determination by the receiver of available
24 escrow funds.

25 (8) To redeem or take down collateral hypothecated
26 by the title insurance company to secure its notes and
27 other evidence of indebtedness whenever the court deems
28 it to be in the best interest of the creditors of the
29 title insurance company and directs the receiver so to
30 do.

31 (k) Whenever the receiver finds it necessary in his or
32 her opinion to use and employ money of the title insurance
33 company in order to protect fully and benefit the title
34 insurance company by the purchase or redemption of any

1 property, real or personal, in which the title insurance
2 company may have any rights by reason of any bond, mortgage,
3 assignment, or other claim thereto, the receiver may certify
4 the facts together with the receiver's opinions as to the
5 value of the property involved, and the value of the equity
6 the title insurance company may have in the property to the
7 court, together with a request for the right and authority to
8 use and employ so much of the money of the title insurance
9 company as may be necessary to purchase the property, or to
10 redeem the same from a sale if there was a sale, and if the
11 request is granted, the receiver may use so much of the money
12 of the title insurance company as the court may have
13 authorized to purchase the property at the sale.

14 The receiver shall deposit daily all moneys collected by
15 him or her in any State or national bank approved by the
16 court. The deposits shall be made in the name of the
17 Director, in trust for the receiver, and be subject to
18 withdrawal upon the receiver's order or upon the order of
19 those persons the Director may designate. The moneys may be
20 deposited without interest, unless otherwise agreed. The
21 receiver shall do the things and take the steps from time to
22 time under the direction and approval of the court that may
23 reasonably appear to be necessary to conserve the title
24 insurance company's assets and secure the best interests of
25 the creditors, insureds, and escrow depositors of the title
26 insurance company. The receiver shall record any judgment of
27 dissolution entered in a dissolution proceeding and thereupon
28 turn over to the Director a certified copy of the judgment.
29 The receiver may cause all assets of the insureds and escrow
30 depositors of the title insurance company to be registered in
31 the name of the receiver or in the name of the receiver's
32 nominee.

33 For its services in administering the escrows held by the
34 title insurance company during the period of winding up the

1 affairs of the title insurance company, the receiver is
2 entitled to be reimbursed for all costs and expenses incurred
3 by the receiver and shall also be entitled to receive out of
4 the assets of the individual escrows being administered by
5 the receiver during the period of winding up the affairs of
6 the title insurance company and prior to the appointment of a
7 successor escrowee the usual and customary fees charged by an
8 escrowee for escrows or reasonable fees approved by the
9 court.

10 The receiver, during its administration of the escrows of
11 the title insurance company during the winding up of the
12 affairs of the title insurance company, shall have all of the
13 powers that are vested in trustees under the terms and
14 provisions of the Trusts and Trustees Act.

15 Upon the appointment of a successor escrowee, the
16 receiver shall deliver to the successor escrowee all of the
17 assets belonging to each individual escrow to which the
18 successor escrowee succeeds, and the receiver shall thereupon
19 be relieved of any further duties or obligations with respect
20 thereto.

21 (1) The receiver shall, upon approval by the court, pay
22 all claims against the assets of the title insurance company
23 allowed by the court pursuant to subsection (i) of this
24 Section, as well as claims against the assets of insureds and
25 escrow depositors of the title insurance company in
26 accordance with the following priority:

27 (1) All necessary and reasonable expenses of the
28 Director's possession and control and of its receivership
29 shall be paid from the assets of the title insurance
30 company.

31 (2) All usual and customary fees charged for
32 services in administering escrows shall be paid from the
33 assets of the individual escrows being administered. If
34 the assets of the individual escrows being administered

1 are insufficient, the fees shall be paid from the assets
2 of the title insurance company.

3 (3) Secured claims, including claims for taxes and
4 debts due the federal or any state or local government,
5 that are secured by liens perfected prior to the date of
6 filing of the complaint for dissolution, shall be paid
7 from the assets of the title insurance company.

8 (4) Claims by policyholders, beneficiaries,
9 insureds and escrow depositors of the title insurance
10 company shall be paid from the assets of the insureds and
11 escrow depositors. If there are insufficient assets of
12 the insureds and escrow depositors, claims shall be paid
13 from the assets of the title insurance company.

14 (5) Any other claims due the federal government
15 shall be paid from the assets of the title insurance
16 company.

17 (6) Claims for wages or salaries, excluding
18 vacation, severance and sick leave pay earned by
19 employees for services rendered within 90 days prior to
20 the date of filing of the complaint for dissolution,
21 shall be paid from the assets of the title insurance
22 company.

23 (7) All other claims of general creditors not
24 falling within any priority under this subsection
25 including claims for taxes and debts due any state or
26 local government which are not secured claims and claims
27 for attorney's fees incurred by the title insurance
28 company in contesting the dissolution shall be paid from
29 the assets of the title insurance company.

30 (8) Proprietary claims asserted by an owner, member
31 or stockholder of the title insurance company in
32 receivership shall be paid from the assets of the title
33 insurance company.

34 The receiver shall pay all claims of equal priority

1 according to the schedule set out in this subsection, and
2 shall not pay claims of lower priority until all higher
3 priority claims are satisfied. If insufficient assets are
4 available to meet all claims of equal priority, those assets
5 shall be distributed pro rata among those claims. All
6 unclaimed assets of the title insurance company shall be
7 deposited with the receiver to be paid out by him when such
8 claims are submitted and allowed by the court.

9 (m) At the termination of the receiver's administration,
10 the receiver shall petition the court for the entry of a
11 judgment of dissolution. After a hearing upon the notice as
12 the court may prescribe, the court may enter a judgment of
13 dissolution whereupon the title insurance company's corporate
14 existence shall be terminated and the receivership concluded.

15 (n) The receiver shall serve at the pleasure of the
16 Director and upon the death, inability to act, resignation,
17 or removal by the Director of a receiver, the Director may
18 appoint a successor, and upon the appointment, all rights and
19 duties of the predecessor shall at once devolve upon the
20 appointee.

21 (215 ILCS 155/23) (from Ch. 73, par. 1423)

22 Sec. 23. Violation; penalty. Any violation of any of
23 the provisions of this Act shall constitute a petty business
24 offense and shall subject the party violating the same to a
25 penalty of \$1000 for each offense. An action to enforce the
26 provisions of this Section may be brought only by the
27 Director.

28 (Source: P.A. 86-239.)

29 Section 99. Effective date. This Act takes effect
30 January 1, 2002.