

AN ACT concerning title insurance.

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

Section 5. The Title Insurance Act is amended by changing Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14.1, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 and by adding Sections 4.1, 21.1, 21.2, and 21.3 as follows:

(215 ILCS 155/2) (from Ch. 73, par. 1402)

Sec. 2. Any corporation which has been or shall be incorporated or qualified to do business under the Business Corporation Act of 1983, as now or hereafter amended, or any predecessor law for the purpose, in whole or part, of doing the business of title insurance ~~guaranteeing or insuring titles to real estate~~, may transact such business during the time for which it may be incorporated or qualified to do business in this State, subject to the requirements of this Act.

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

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

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

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

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

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

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

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

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

(iv) executing title insurance policies;

(v) effecting contracts of reinsurance;

(vi) abstracting, searching, or examining titles;

or

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

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

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

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

(1.5) "Title insurance" means insuring, guaranteeing, warranting, or indemnifying owners of real or personal property or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in, or the unmarketability of the title to the property; the invalidity or unenforceability of any liens or encumbrances thereon; or doing any business in substance equivalent to any of the foregoing. "Warranting" for

purpose of this provision shall not include any warranty contained in instruments of encumbrance or conveyance. Title insurance is a single line form of insurance, also known as monoline. An attorney's opinion of title pursuant to paragraph (1)(C) is not intended to be within the definition of "title insurance".

(2) "Title insurance company" means any domestic company organized under the laws of this State for the purpose of conducting the business of title insurance ~~guaranteeing or insuring titles to real estate~~ and any title insurance company organized under the laws of another State, the District of Columbia or foreign government and authorized to transact the business of title insurance ~~guaranteeing or insuring titles to real estate~~ in this State.

(3) "Title insurance agent" means a person, firm, partnership, association, corporation or other legal entity registered by a title insurance company and authorized by such company to determine insurability of title in accordance with generally acceptable underwriting rules and standards in reliance on either the public records or a search package prepared from a title plant, or both, and authorized in addition to do any of the following: act as an escrow agent, solicit title insurance, collect premiums, issue title reports, binders or commitments to insure and policies in its behalf, provided, however, the term "title insurance agent" shall not include officers and salaried employees of any title insurance company.

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

(5) "Associate" is any firm, association, partnership, corporation or other legal entity organized for profit in which a producer of title business is a director, officer, or partner thereof, or owner of a financial interest, as defined herein, in such entity; any legal entity that controls, is controlled by, or is under common control with a producer of title business; and any natural person or legal entity with whom a producer of title business has any agreement, arrangement, or understanding or pursues any course of conduct the purpose of which is to evade the provisions of this Act.

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

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

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

(9) "Independent Escrowee" means any firm, person, partnership, association, corporation or other legal entity, other than a title insurance company or a title insurance agent, which receives deposits, in trust, of funds or documents, or both, for the purpose of effecting the sale, transfer, encumbrance or lease of real property to be held by such escrowee until title to the real property that is the subject of the escrow is in a prescribed condition. Federal and State chartered banks, savings and loan associations, credit unions, mortgage bankers, banks or trust companies authorized

to do business under the Illinois Corporate Fiduciary Act, licensees under the Consumer Installment Loan Act, real estate brokers licensed pursuant to the Real Estate License Act of 2000, as such Acts are now or hereafter amended, and licensed attorneys when engaged in the attorney-client relationship are exempt from the escrow provisions of this Act. "Independent Escrowee" does not include employees or independent contractors of a title insurance company or title insurance agent authorized by a title insurance company to perform closing, escrow, or settlement services.

(10) "Single risk" means the insured amount of any title insurance policy, except that where 2 or more title insurance policies are issued simultaneously covering different estates in the same real property, "single risk" means the sum of the insured amounts of all such title insurance policies. Any title insurance policy insuring a mortgage interest, a claim payment under which reduces the insured amount of a fee or leasehold title insurance policy, shall be excluded in computing the amount of a single risk to the extent that the insured amount of the mortgage title insurance policy does not exceed the insured amount of the fee or leasehold title insurance policy.

(11) "Department" means the Department of Financial and Professional Regulation ~~Institutions~~.

(12) "Secretary" ~~"Director"~~ means the Secretary ~~Director~~ of Financial and Professional Regulation ~~Institutions~~.

(13) "Insured closing letter" or "closing protection letter" means an indemnification or undertaking to a party to a real estate transaction, from a principal such as a title insurance company or similar entity, setting forth in writing the extent of the principal's responsibility for intentional misconduct or errors in closing the real estate transaction on the part of a settlement agent, such as a title insurance agent or other settlement service provider.

(Source: P.A. 91-159, eff. 1-1-00; 91-245, eff. 12-31-99; 92-16, eff. 6-28-01.)

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

Sec. 4. Deposits.

(a) Before doing business in the State of Illinois, a ~~Every~~ title insurance company must file with and have approved by the Secretary cash or licensed or qualified to do business in this State shall, within 30 days after the effective date of this Act or within 30 days after incorporated or licensed to do business, whichever is later, deposit with the Department, for the benefit of the creditors of the company by reason of any policy issued by it, bonds of the United States, this State or any body politic of this State in amounts as specified in subsection (b). The deposit is not to be otherwise pledged or subject to distribution among creditors or stockholders until all claims of escrow depositors, claims of policyholders, and claims under reinsurance contracts have been paid in full or discharged, reinsured, or otherwise assumed by a title insurance company authorized to do business under this Act. The cash, bonds, and securities so deposited may be exchanged for other such securities. No such cash, bond, or security shall be sold or transferred by the Secretary ~~Director~~ except on order of the circuit court or as provided in subsection (d). As long as the company depositing such securities remains solvent, the company shall be permitted to receive from the Secretary ~~Director~~ the interest on such deposit.

(b) The deposit required under subsection (a) must have a then current value of \$1,000,000. All deposits shall be held for the benefit of any insured under a policy the title insurance company issued or named party to a written escrow it accepted. The deposit is not to be otherwise pledged or subject to distribution among creditors or stockholders. ~~Every title insurance company shall deposit bonds or securities in the sum of \$50,000 plus \$5,000 for each county, more than one, in which the real estate, upon which such policies are issued, is located, to maximum deposit of \$500,000. Every title insurance company guaranteeing or insuring titles to real estate in counties having 500,000 or more inhabitants shall deposit~~

~~securities with the Department in the sum of \$500,000. Any title insurance company having deposited \$500,000 in securities with the Department shall be entitled to guarantee or insure titles in any or all counties of the State.~~

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

(d) If, at any time, a title insurance company causes ~~shall~~ ~~at any time cause~~ all of its unexpired policies, escrow deposits, and reinsurance obligations in Illinois to be paid in full, cancelled, discharged, or reinsured, or otherwise assumed by another title insurance company ~~and all of its liabilities under such policies thereby to be extinguished, or to be assumed by some surety or other responsible company~~ authorized to do business under this Act ~~in this State,~~ the Secretary Director shall, upon ~~on~~ application of the ~~such~~ company, verified by the oath of its president or secretary and on being satisfied by an examination of its books and its officers under oath that all of its policies are ~~so~~ paid in full, cancelled, discharged, extinguished or reinsured, or otherwise assumed, authorize the release of any bond or deposit posted under this Section. ~~deliver up to it such securities.~~

(e) The Secretary may revoke the certificate of authority of a company that fails to maintain the deposit required by this Section. The Secretary shall give notice of that revocation to the company as provided by this Act, and during the time of the revocation, the company may not conduct a title insurance business. A company may complete contractual obligations, such as issuing a policy where the obligations

have already been assumed. However, it may not solicit new business, complete new searches or examinations, or close transactions. A revocation shall not be set aside until a good and sufficient deposit has been filed with the Secretary and the company is otherwise in compliance with this Act.

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

(215 ILCS 155/4.1 new)

Sec. 4.1. Minimum capital and surplus. Before doing business in the State of Illinois, a title insurance company must satisfy the Secretary that it has a minimum capital and surplus of \$2,000,000. The Secretary may provide the forms and standards for this purpose by rule.

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

Sec. 5. Certificate of authority required. It is unlawful ~~shall not be lawful~~ for any company to engage or to continue in the business of title insurance ~~guaranteeing or insuring titles to real estate,~~ without first procuring from the Secretary ~~Director~~ a certificate of authority stating that the ~~such a~~ company has complied with the requirements of Section 4 of this Act. An insurer that transacts any class of insurance other than title insurance anywhere in the United States is not eligible for the issuance of a certificate of authority to transact title insurance in this State nor for a renewal of a certificate of authority. ~~If any company shall fail to maintain a deposit as required by this Act, the Director may revoke the certificate of authority granted on behalf of such company. The Director shall mail a copy of that revocation to the company and during the time of such revocation the company shall not conduct such business. A revocation shall not be set aside until a good and sufficient deposit shall have been made with the Department, fulfilling all the requirements of this Act.~~

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

(215 ILCS 155/6) (from Ch. 73, par. 1406)

Sec. 6. Reinsurance.

(a) A title insurance company may obtain reinsurance for all or any part of its liability under one or more of its title insurance policies or reinsurance agreements and may also reinsure title insurance policies issued by other title insurance companies on risks located in this State or elsewhere.

(b) A title insurance company licensed to do business in this State shall retain at least \$100,000 of primary liability for policies it issues, unless a lesser sum is authorized by the Secretary. A lesser sum may be retained at the request of an insured for a particular policy. This subsection (b) applies only to policies issued on or after the effective date of this amendatory Act of the 94th General Assembly.

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

(215 ILCS 155/7) (from Ch. 73, par. 1407)

Sec. 7. Investments.

(a) Subject to the specific provisions of this Section, the Secretary ~~Director~~ may, after a notice and hearing, order a domestic title insurance company to limit or withdraw from certain investments, or discontinue certain investment practices, to the extent the Secretary ~~Director~~ finds that such investments or investment practices endanger the solvency of the company. The Secretary ~~Director~~ may consider the general investment provisions of the Illinois Insurance Code, as now or hereafter amended, in exercising the authority granted under this subsection (a).

(b) A domestic title insurance company may invest in title plants. For determination of the financial condition of such title insurance company, a title plant shall be treated as an asset valued at actual cost except that the combined value of all title plants owned shall be limited for asset valuation purposes to 50% of the surplus as regards policyholders as shown on the most recent annual statement of the title insurance company.

(c) Any investment of a domestic title insurance company acquired before the effective date of this Act and which, under this Section, would be considered ineligible as an investment on that date shall be disposed of within 2 years of the effective date of this Act. The Secretary ~~Director~~, upon application and proof that forced sale of any such investment would be contrary to the best interests of the title insurer or its policyholders, may extend the period for disposal of the investment for a reasonable time.

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

(215 ILCS 155/8) (from Ch. 73, par. 1408)

Sec. 8. Retained liability.

(a) The net retained liability of a title insurance company for a single risk on property located in this State, whether assumed directly or as reinsurance, may not exceed 50% of the total surplus to policyholders as shown in the most recent annual statement of the title insurance company on file with the Department.

(b) The Secretary ~~Director~~ may waive the limitation of this Section for a particular risk upon application of the title insurance company and for good cause shown.

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

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

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

(a) Whenever the capital of any title insurance company authorized to do business under this Act ~~is~~ ~~shall be~~ determined by the circuit court, upon the application of the Secretary ~~Director~~, to ~~be~~ ~~have become~~ impaired to the extent of 25% of its capital ~~the same~~, or to have otherwise become unsafe, ~~it shall be the duty of the~~ Secretary shall ~~Director to~~ cancel the authority of the ~~such~~ company to do business.

(b) The Secretary ~~Director~~ shall give notice as provided by this Act to the ~~such~~ company to discontinue doing business

~~issuing new policies~~ until its ~~such~~ capital has been made good.  
The title insurance company may continue to issue policies and perform other actions that are required to complete contractual obligations undertaken prior to the notice.

(c) Any officer or management employee who continues to take orders for title insurance or close transactions ~~issues a new policy of title insurance~~ on behalf of a ~~such~~ company after the ~~such~~ notice to discontinue doing business, and before its until ~~such~~ capital has been made good, may ~~shall~~, for each offense, be fined as provided by this Act ~~forfeit a sum not exceeding \$1,000.~~

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

(215 ILCS 155/10) (from Ch. 73, par. 1410)

Sec. 10. Reserves. All title insurance companies authorized to do business under this Act shall establish and maintain reserves against unpaid losses and loss expenses. Upon receiving notice from or on behalf of the insured of a title defect, lien or adverse claim against the title of the insured that may result in a loss or cause expense to be incurred in the proper disposition of the claim, the title insurance company shall determine the amount to be added to the reserve, which amount shall reflect a careful estimate of the loss or loss expense likely to result by reason of the claim. Reserves required under this Section may be revised from time to time and shall be redetermined at least once each year. A title insurance company must maintain its reserves for losses independent of any other form of insurance and therefore may not issue other lines of insurance.

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

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

Sec. 11. Statutory premium reserve.

(a) A domestic title insurance company shall establish and maintain a statutory premium reserve computed in accordance with this Section. The reserve shall be reported as a liability

of the title insurance company in its financial statements. The statutory premium reserve shall be maintained by the title insurance company for the protection of holders of title insurance policies. Except as provided in this Section, assets equal in value to the statutory premium reserve are not subject to distribution among creditors or stockholders of the title insurance company until all claims of policyholders or claims under reinsurance contracts have been paid in full, ~~and all liability on the policies or reinsurance contracts has been paid in full~~ and discharged, or lawfully reinsured, or otherwise assumed by another title insurance company authorized to do business under this Act.

(b) A foreign or alien title insurance company authorized to do business under this Act shall maintain at least the same reserves on title insurance policies issued on properties located in this State as are required of domestic title insurance companies.

(c) The statutory premium reserve shall consist of:

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

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

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

(e) A title insurance company shall release from the statutory premium reserve a sum equal to 10% of the amount added to the reserve during a calendar year on July 1 of each of the 5 years following the year in which the sum was added, and shall release from the statutory premium reserve a sum equal to 3 1/3% of the amount added to the reserve during that year on each succeeding July 1 until the entire amount for that year has been released. The amount of the statutory premium

reserve or similar premium reserve maintained before January 1, 1990, shall be released in accordance with the law in effect before January 1, 1990.

(f) This reserve is independent of the deposit requirements of Section 4 of this Act.

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

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

Sec. 12. Examinations; compliance.

(a) The Secretary ~~Director~~ or his authorized representative shall have the power and authority, and it shall be his duty, to cause to be visited and examined annually any title insurance company doing business under this Act, and to verify and compel a compliance with the provisions of law governing it ~~as he may by law exercise in relation to trust companies.~~

(b) The Secretary ~~Director~~ or his authorized agent shall have power and authority to compel compliance with the provisions of this Act and shall, only upon the showing of good cause, require any title insurance company to take all legal means to obtain the appropriate records of its registered agents and make them available for examination ~~audit~~ at a time and place designated by the Secretary ~~Director~~. Expenses incurred in the course of such examinations ~~audits~~ will be the responsibility of the title insurance company. In the event that a present or former registered agent or its successor refuses or is unable to cooperate with a title insurance company in furnishing the records requested by the Secretary or his or her authorized agent, then the Secretary or his or her authorized agent shall have the power and authority to obtain those records directly from the registered agent.

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

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

Sec. 13. Annual statement.

(a) Each title insurance company shall file with the

Department during the month of March of each year, a statement under oath, of the condition of such company on the thirty-first day of December next preceding disclosing the assets, liabilities, earnings and expenses of the company. The report shall be in such form and shall contain such additional statements and information as to the affairs, business, and conditions of the company as the Secretary ~~Director~~ may from time to time prescribe or require.

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

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

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

Sec. 14. Fees.

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

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

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

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

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

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

(b) Each title insurance company shall pay, for all of its title insurance agents subject to this Act for filing an annual registration of its agents, an amount equal to \$3 for each policy issued by all of its agents in the immediately preceding calendar year.

(Source: P.A. 93-32, eff. 7-1-03.)

(215 ILCS 155/14.1)

Sec. 14.1. Financial Institutions Fund. All moneys received by the Department of Financial and Professional

Regulation ~~Institutions~~ under this Act shall be deposited in the Financial Institutions Fund created under Section 6z-26 of the State Finance Act.

(Source: P.A. 88-13.)

(215 ILCS 155/15) (from Ch. 73, par. 1415)

Sec. 15. Retaliatory provisions; fees. Whenever the existing or future laws of any State or country shall require of title insurance companies incorporated or organized under the laws of this State, as a condition precedent to their transacting in such other State or country the business of title insurance ~~guaranteeing or insuring titles to real estate,~~ compliance with laws, rules, regulations or prohibitions more onerous or burdensome than those imposed under this Act by this State on foreign title insurance companies transacting such business in this State, or shall require any deposit of securities or other obligations in such State or country for the protection of policyholders, or otherwise, in excess of the amounts required of foreign title insurance companies by this Act, or shall require of Illinois title insurance companies doing such business in such State or country, the payment of penalties, fees, charges or taxes greater than the aggregate for like purposes imposed by the laws of this State upon such foreign title insurance companies, then such laws, rules, regulations, and prohibitions of said other State or country shall apply to title insurance companies incorporated or organized under the laws of such State or country doing business in this State, and all such companies, doing business in this State, shall be required to make deposits with the Department, and to pay to the Department penalties, fees, charges, and taxes at least in amounts equal to those required in the aggregate for like purpose of Illinois companies doing such business in such State or country.

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

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

Sec. 16. Title insurance agents.

(a) No person, firm, partnership, association, corporation or other legal entity shall act as or hold itself out to be a title insurance agent unless duly registered by a title insurance company with the Secretary ~~Director~~.

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

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

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

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

Interest received on funds deposited with the escrow agent in connection with any escrow, settlement, or closing shall be

paid to the depositing party unless the instructions provide otherwise.

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

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

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

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

Sec. 17. Independent escrowees.

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

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

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

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

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

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

settlement, or closing and shall be segregated by escrow, settlement or closing in the records of the independent escrowee. Such funds shall not be subject to any debts of the escrowee and shall be used only in accordance with the terms of the individual escrow, settlement or closing under which the funds were accepted.

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

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

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

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

(g) A title insurance company or title insurance agent, not qualified as an independent escrowee, may act in the capacity of an escrow agent when it is supplying an abstract of title, grantor-grantee search, tract search, lien search, tax assessment search, or other limited purpose search to the parties to the transaction even if it is not issuing a title insurance commitment or title insurance policy. A title insurance agent may act as an escrow agent only when specifically authorized in writing on forms prescribed by the Secretary ~~Director~~ by a title insurance company that has duly registered the agent with the Secretary ~~Director~~ and only when notice of the authorization is provided to and receipt thereof is acknowledged by the Secretary ~~Director~~. The authority granted to a title insurance agent may be limited or revoked at any time by the title insurance company.

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

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

Sec. 18. No referral payments; kickbacks.

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

(b) No title insurance company, independent escrowee, or title insurance agent may issue a title insurance policy to, or provide services to an applicant if it knows or has reason to believe that the applicant was referred to it by any producer of title business or by any associate of such producer, where the producer, the associate, or both, have a financial interest in the title insurance company, independent escrowee, or title insurance agent to which business is referred unless the producer has disclosed to any party paying for the products or services, or his representative, the financial interest of the producer of title business or associate referring the title business and a disclosure of an estimate of those charges to be paid as described in Section 19. Such disclosure must be made in writing on forms prescribed by the Secretary ~~Director~~ prior to the time that the commitment for title insurance is issued. The title insurance company, independent escrowee, or title insurance agent shall maintain the disclosure forms for a period of 3 years.

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

(1) Each title insurance company and independent

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

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

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

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

(215 ILCS 155/19) (from Ch. 73, par. 1419)

Sec. 19. Secretary powers; pricing. Nothing contained in this Act shall be construed as giving any authority to the Secretary ~~Director~~ to set or otherwise adjust the fees charged to the parties to the transaction for:

(1) issuing a title insurance policy, including any service charge or administration fee for the issuance of a title insurance policy;

(2) abstracting, searching and examining title;

(3) preparing or issuing preliminary reports, property profiles, commitments, binders, or like product;

(4) closing fees, escrow fees, settlement fees, and like charges.

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

(215 ILCS 155/20) (from Ch. 73, par. 1420)

Sec. 20. Rules and regulations. The Secretary ~~Director~~ shall rely upon federal regulations and opinion letters and may adopt rules and regulations as needed to implement and interpret the provisions of this Act.

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

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

Sec. 21. Regulatory action.

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

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

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

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

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

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

(6) has failed to comply with the deposit and reserve requirements of this Act or any other requirements of this Act.

(b) In every case where a registration or certificate is suspended or revoked, or an application for a registration or certificate or renewal thereof is refused, the Secretary ~~Director~~ shall serve notice of his action, including a statement of the reasons for his action, as provided by this Act. When a notice of suspension or revocation of a certificate of authority is given to a title insurance company, the

~~Secretary shall also notify all the registered agents of that title insurance company of the Secretary's action. either personally or by registered or certified mail. Service by mail shall be deemed completed if such notice is deposited in the post office, postage paid, addressed to the last known address specified in the application for the certificate or registration of such holder or registrant.~~

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

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

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

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

(g) The suspension or revocation of a registration or

certificate or the refusal to issue or renew a registration or certificate shall not in any way limit or terminate the responsibilities of any registrant or certificate holder arising under any policy or contract of title insurance to which it is a party. No new contract or policy of title insurance may be issued, nor may any existing policy or contract to title insurance be renewed by any registrant or certificate holder during any period of suspension or revocation of a registration or certificate.

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

The Secretary ~~Director~~ may issue the cease and desist order without notice and before a hearing.

The Secretary ~~Director~~ shall have the authority to prescribe rules for the administration of this Section.

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

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

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

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

(215 ILCS 155/21.1 new)

Sec. 21.1. Receiver and involuntary liquidation.

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

(b) If the Secretary, with respect to a title insurance company, finds that (i) its capital is impaired or it is otherwise in an unsound condition, (ii) its business is being conducted in an unlawful, fraudulent, or unsafe manner, (iii) it is unable to continue operations, or (iv) its examination has been obstructed or impeded, the Secretary may give notice to the board of directors of the title insurance company of his or her finding or findings. If the Secretary's findings are not corrected to his or her satisfaction within 60 days after the company receives the notice, the Secretary shall take possession and control of the title insurance company, its assets, and assets held by it for any person for the purpose of examination, reorganization, or liquidation through receivership.

If, in addition to making a finding as provided in this subsection (b), the Secretary is of the opinion and finds that an emergency that may result in serious losses to any person exists, the Secretary may, in his or her discretion, without having given the notice provided for in this subsection, and whether or not proceedings under subsection (a) of this Section have been instituted or are then pending, take possession and control of the title insurance company and its assets for the purpose of examination, reorganization, or liquidation through receivership.

(c) The Secretary may take possession and control of a title insurance company, its assets, and assets held by it for any person by posting upon the premises of each office located in the State of Illinois at which it transacts its business as a title insurance company a notice reciting that the Secretary

is assuming possession pursuant to this Act and the time when the possession shall be deemed to commence.

(d) Promptly after taking possession and control of a title insurance company the Secretary, represented by the Attorney General, shall file a copy of the notice posted upon the premises in the Circuit Court of either Cook County or Sangamon County, which cause shall be entered as a court action upon the dockets of the court under the name and style of "In the matter of the possession and control by the Secretary of the Department of Financial and Professional Regulation of (insert the name of the title insurance company)". If the Secretary determines (which determination may be made at the time of, or at any time subsequent to, taking possession and control of a title insurance company) that no practical possibility exists to reorganize the title insurance company after reasonable efforts have been made, the Secretary, represented by the Attorney General, shall also file a complaint, if it has not already been done, for the appointment of a receiver or other proceeding as is appropriate under the circumstances. The court where the cause is docketed shall be vested with the exclusive jurisdiction to hear and determine all issues and matters pertaining to or connected with the Secretary's possession and control of the title insurance company as provided in this Act, and any further issues and matters pertaining to or connected with the Secretary's possession and control as may be submitted to the court for its adjudication.

The Secretary, upon taking possession and control of a title insurance company, may, and if not previously done shall, immediately upon filing a complaint for dissolution make an examination of the affairs of the title insurance company or appoint a suitable person to make the examination as the Secretary's agent. The examination shall be conducted in accordance with and pursuant to the authority granted under Section 12 of this Act. The person conducting the examination shall have and may exercise on behalf of the Secretary all of the powers and authority granted to the Secretary under Section

12. A copy of the report shall be filed in any dissolution proceeding filed by the Secretary. The reasonable fees and necessary expenses of the examining person, as approved by the Secretary or as recommended by the Secretary and approved by the court if a dissolution proceeding has been filed, shall be borne by the subject title insurance company and shall have the same priority for payment as the reasonable and necessary expenses of the Secretary in conducting an examination. The person appointed to make the examination shall make a proper accounting, in the manner and scope as determined by the Secretary to be practical and advisable under the circumstances, on behalf of the title insurance company and no guardian ad litem need be appointed to review the accounting.

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

(1) the power to continue or to discontinue the business;

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

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

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

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

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

(7) the power to commence, defend, and conduct in the title insurance company's name any action or proceeding in which it may be a party;

(8) the power, upon the order of the court, to sell and convey the title insurance company's assets, in whole or in part, and to sell or compound bad or doubtful debts upon such terms and conditions as may be fixed in that order;

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

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

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

(12) the power to appoint a receiver which may be the Secretary of the Department of Financial and Professional Regulation, another title insurance company, or another suitable person and to order liquidation of the title insurance company as provided in this Act; and

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

(f) Upon taking possession, the Secretary shall make an examination of the condition of the title insurance company, an inventory of the assets and, unless the time shall be extended by order of the court or unless the Secretary shall have otherwise settled the affairs of the title insurance company pursuant to the provisions of this Act, within 90 days after the time of taking possession and control of the title insurance company, the Secretary shall either terminate his or her possession and control by restoring the title insurance

company to its board of directors or appoint a receiver, which may be the Secretary of the Department of Financial and Professional Regulation, another title insurance company, or another suitable person and order the liquidation of the title insurance company as provided in this Act. All necessary and reasonable expenses of the Secretary's possession and control shall be a priority claim and shall be borne by the title insurance company and may be paid by the Secretary from the title insurance company's own assets as distinguished from assets held for any other person.

(g) If the Secretary takes possession and control of a title insurance company and its assets, any period of limitation fixed by a statute or agreement that would otherwise expire on a claim or right of action of the title insurance company, on its own behalf or on behalf of its insureds or escrow depositors, or upon which an appeal must be taken or a pleading or other document filed by the title insurance company in any pending action or proceeding, shall be tolled until 6 months after the commencement of the possession, and no judgment, lien, levy, attachment, or other similar legal process may be enforced upon or satisfied, in whole or in part, from any asset of the title insurance company or from any asset of an insured or escrow depositor while it is in the possession of the Secretary.

(h) If the Secretary appoints a receiver to take possession and control of the assets of insureds or escrow depositors for the purpose of holding those assets as fiduciary for the benefit of the insureds or escrow depositors pending the winding up of the affairs of the title insurance company being liquidated and the appointment of a successor escrowee for those assets, any period of limitation fixed by statute, rule of court, or agreement that would otherwise expire on a claim or right of action in favor of or against the insureds or escrow depositors of those assets or upon which an appeal must be taken or a pleading or other document filed by a title insurance company on behalf of an insured or escrow depositor

in any pending action or proceeding shall be tolled for a period of 6 months after the appointment of a receiver, and no judgment, lien, levy, attachment, or other similar legal process shall be enforced upon or satisfied, in whole or in part, from any asset of the insured or escrow depositor while it is in the possession of the receiver.

(i) If the Secretary determines at any time that no reasonable possibility exists for the title insurance company to be operated by its board of directors in accordance with the provisions of this Act after reasonable efforts have been made and that it should be liquidated through receivership, he or she shall appoint a receiver. The Secretary may require of the receiver such bond and security as the Secretary deems proper. The Secretary, represented by the Attorney General, shall file a complaint for the dissolution or winding up of the affairs of the title insurance company in a court of the county in which the principal office of the title insurance company is located and shall cause notice to be given in a newspaper of general circulation once each week for 4 consecutive weeks so that persons who may have claims against the title insurance company may present them to the receiver and make legal proof thereof and notifying those persons and all to whom it may concern of the filing of a complaint for the dissolution or winding up of the affairs of the title insurance company and stating the name and location of the court. All persons who may have claims against the assets of the title insurance company, as distinguished from the assets of insureds and escrow depositors held by the title insurance company, and the receiver to whom those persons have presented their claims may present the claims to the clerk of the court, and the allowance or disallowance of the claims by the court in connection with the proceedings shall be deemed an adjudication in a court of competent jurisdiction. Within a reasonable time after completion of publication, the receiver shall file with the court a correct list of all creditors of the title insurance company as shown by its books, who have not presented their

claims and the amount of their respective claims after allowing adjusted credit, deductions, and set-offs as shown by the books of the title insurance company. The claims so filed shall be deemed proven unless objections are filed thereto by a party or parties interested therein within the time fixed by the court.

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

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

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

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

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

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

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

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

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

(k) Whenever the receiver finds it necessary in his or her opinion to use and employ money of the title insurance company in order to protect fully and benefit the title insurance company by the purchase or redemption of property, real or personal, in which the title insurance company may have any rights by reason of any bond, mortgage, assignment, or other claim thereto, the receiver may certify the facts together with the receiver's opinions as to the value of the property involved and the value of the equity the title insurance company may have in the property to the court, together with a request for the right and authority to use and employ so much of the money of the title insurance company as may be necessary to purchase the property, or to redeem the property from a sale if there was a sale, and if the request is granted, the receiver may use so much of the money of the title insurance company as the court may have authorized to purchase the property at the sale.

The receiver shall deposit daily all moneys collected by him or her in any State or national bank approved by the court. The deposits shall be made in the name of the Secretary, in trust for the receiver, and be subject to withdrawal upon the receiver's order or upon the order of those persons the Secretary may designate. The moneys may be deposited without interest, unless otherwise agreed. The receiver shall do the things and take the steps from time to time under the direction and approval of the court that may reasonably appear to be necessary to conserve the title insurance company's assets and secure the best interests of the creditors, insureds, and escrow depositors of the title insurance company. The receiver shall record any judgment of dissolution entered in a dissolution proceeding and thereupon turn over to the Secretary a certified copy of the judgment.

The receiver may cause all assets of the insureds and escrow depositors of the title insurance company to be registered in the name of the receiver or in the name of the receiver's nominee.

For its services in administering the escrows held by the title insurance company during the period of winding up the affairs of the title insurance company, the receiver is entitled to be reimbursed for all costs and expenses incurred by the receiver and shall also be entitled to receive out of the assets of the individual escrows being administered by the receiver during the period of winding up the affairs of the title insurance company and prior to the appointment of a successor escrowee the usual and customary fees charged by an escrowee for escrows or reasonable fees approved by the court.

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

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

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

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

(2) All usual and customary fees charged for services in administering escrows shall be paid from the assets of the individual escrows being administered. If the assets of the individual escrows being administered are insufficient, the fees shall be paid from the assets of the title insurance company.

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

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

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

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

(7) All other claims of general creditors not falling within any priority under this subsection (1) including claims for taxes and debts due any state or local government which are not secured claims and claims for attorney's fees incurred by the title insurance company in contesting the dissolution shall be paid from the assets of the title insurance company.

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

The receiver shall pay all claims of equal priority according to the schedule set out in this subsection, and shall not pay claims of lower priority until all higher priority claims are satisfied. If insufficient assets are available to meet all claims of equal priority, those assets shall be distributed pro rata among those claims. All unclaimed assets of the title insurance company shall be deposited with the

receiver to be paid out by him or her when such claims are submitted and allowed by the court.

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

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

(o) Whenever the Secretary shall have taken possession and control of a title insurance company or a title insurance agent and its assets for the purpose of examination, reorganization or liquidation through receivership, or whenever the Secretary shall have appointed a receiver for a title insurance company or title insurance agent and filed a complaint for the dissolution or winding up of its affairs, and the title insurance company or title insurance agent denies the grounds for such actions, it may at any time within 10 days apply to the Circuit Court of Cook or Sangamon County to enjoin further proceedings in the premises; and the Court shall cite the Secretary to show cause why further proceedings should not be enjoined, and if the Court shall find that grounds do not exist, the Court shall make an order enjoining the Secretary or any receiver acting under his direction from all further proceedings on account of the alleged grounds.

(215 ILCS 155/21.2 new)

Sec. 21.2. Notice.

(a) Notice of any action by the Secretary under this Act or regulations or orders promulgated under it shall be made either personally or by registered or certified mail, return receipt

requested, and by sending a copy of the notice by telephone facsimile or electronic mail, if known and operating, and if unknown or not operating, then by regular mail. Service by mail shall be deemed completed if the notice is deposited as registered or certified mail in the post office, postage paid, addressed to the last known address specified in the application for the certificate of authority to do business or certificate of registration of the holder or registrant.

(b) The Secretary shall notify all registered agents of a title insurance company when that title insurance company's certificate of authority is suspended or revoked.

(215 ILCS 155/21.3 new)

Sec. 21.3. Record retention. Evidence of the examination of title, if any, and determination of insurability for business written by a title insurance company or its title insurance agent and records relating to escrow, closings, and security deposits shall be preserved and retained by the title insurance company or its title insurance agent for as long as appropriate to the circumstances, but in no event less than 7 years after the title insurance policy has been issued or the escrow, closing, or security deposit account has been closed or as provided by applicable federal law. This Section shall not apply to a title insurance company acting as a coinsurer if one of the other coinsurers has complied with this Section.

(215 ILCS 155/22) (from Ch. 73, par. 1422)

Sec. 22. Tax indemnity; notice. A corporation authorized to do business under this Act shall notify the Director of Revenue of the State of Illinois, by notice directed to his office in the City of Chicago, of each trust account or similar account established which relates to title exceptions due to a judgment lien or any other lien arising under any tax Act administered by the Illinois Department of Revenue, when notice of such lien has been filed with the registrar of titles or recorder, as the case may be, in the manner prescribed by law. Such notice shall

contain the name, address, and tax identification number of the debtor, the permanent real estate index numbers, if any, and the address and legal description of the property, the type of lien claimed by the Department and identification of any trust fund or similar account held by such corporation or any agent thereof relating to such lien. Any trust fund or similar account established by such corporation or agent relating to any such lien shall include provisions requiring such corporation or agent to apply such fund in satisfaction or release of such lien upon written demand therefor by the Department of Revenue.

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

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

Sec. 23. Violation; penalties.

(a) Any violation of any of the provisions of this Act shall constitute a business offense and shall subject the party violating the same to a penalty of \$1000 for each offense.

(b) Nothing contained in this Section shall affect the right of the Secretary to revoke or suspend a title insurance company's or independent escrowee's certificate of authority or a title insurance agent's registration under any other Section of this Act.

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

(215 ILCS 155/24) (from Ch. 73, par. 1424)

Sec. 24. Referral fee; penalty. Except as permitted by this Act or by federal law, regulations or opinion letters, no person shall pay or accept, directly or indirectly, any commission, discount, referral fee or other consideration as inducement or compensation for the referral of title business or for the referral of any escrow or other service from a title insurance company, independent escrowee or title insurance agent.

Any violation of this Section 24 is a Class A misdemeanor.

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

(215 ILCS 155/25) (from Ch. 73, par. 1425)

Sec. 25. Actual damages; injunctive relief.

(a) Any person or persons who violate the prohibitions or limitations of subsection (a) of Section 21 of this Act shall be liable to the person or persons charged for the settlement service involved in the violation for actual damages.

(b) Any title insurance company or a title insurance agent who violates the prohibitions or limitations of subsection (a) of Section 21 of this Act shall be subject to injunctive relief. If a permanent injunction is granted, the court may award actual damages. Reasonable attorney's fees and costs may be awarded to the prevailing party.

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

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

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