

**Current Title Insurance Act:**

(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;
    - (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".
  - (F) Issuing Minutes of Foreclosure.

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(6) "Financial interest" is any ownership interest, legal or beneficial, of more than 1%, ~~except ownership of~~ a privately held or publicly traded company.  
~~stock.~~

Commented [ST1]: From 12 U.S.C. §2602(7).

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

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(18) "Minutes of foreclosure" means a part of a commitment for title insurance listing persons or entities that have or may have an interest in title to the land upon which the interest to be foreclosed is a lien, and the procedures necessary to foreclose or insure over those interests.

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

**Sec. 12. Examinations; compliance.**

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

(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 without a certificate of authority issued by ~~unless it has been issued a certificate of authority by~~ duly registered by a title insurance company ~~with~~ the Secretary. Every title insurance agent registration before or after the effective date of this amendatory Act of the 101st General Assembly shall satisfy the requirements for a certificate of authority under this amendatory Act of the 101st General Assembly until January 1 of the calendar year immediately following the adoption of such rules that the Secretary shall adopt as may be necessary for the administration of granting of the certificates of authority for title insurance agents under this amendatory Act of the 101st General Assembly, and until the related application is either approved or disapproved; the continued recognition of such title insurance agent registrations during this period does not relieve title insurance agents and title insurance companies of their other obligations under this Act before the effective date of this amendatory Act of the 101st General Assembly.

(b) Each application for a certificate of authority

registration shall be made on a form specified by the Secretary and prepared by each title insurance ~~agent company which the agent represents.~~ company which the agent represents. The title insurance agent and company authorizing the agent shall retain the copy of the application and issued certificate of authority ~~forward a copy to the Secretary.~~

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

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

(2) Included in every application for a certificate of authority registration of a title insurance agent, including a firm, partnership, association, limited liability company, or corporation, shall be an affidavit of the applicant title insurance agent, signed and notarized in front of a notary public, affirming that the applicant and every owner, officer, director, principal, member, or manager of the applicant has never been convicted or pled guilty to any felony or misdemeanor involving a crime of theft or dishonesty or otherwise accurately disclosing any such felony or misdemeanor involving a crime of theft or dishonesty. No person who has had a conviction or pled guilty to any felony or misdemeanor involving theft or

dishonesty may be ~~registered by a~~ title insurance agent ~~company~~ without a written notification to the Secretary disclosing the conviction or plea, and no such person may serve as an owner, officer, director, principal, or manager of any ~~registered~~ title insurance agent without the written permission of the Secretary.

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

~~(4) Every applicant shall obtain and maintain errors and omissions insurance, or its equivalent, in an amount acceptable to the title insurance company authorizing the agent, but in no event in an amount less than \$250,000 \$100,000 per claim and an aggregate limit of no less than \$500,000 \$250,000 with a deductible no greater than \$25,000.~~ A title insurance company shall not provide the insurance directly or indirectly on behalf of a title insurance agent. In the event errors and omissions insurance is unavailable generally, the Department shall adopt rules for alternative methods to comply with this paragraph.

(d) A certificate of authority ~~Registration~~ shall be

renewed on January 1 every 2 years ~~made annually~~ by a filing with the Secretary; supplemental filings ~~registrations~~ for a new agency agreement with a title insurance company ~~agents~~ to be added between certificate of authority renewal ~~annual~~ filings shall be made by the title insurance agent ~~company~~ from time to time in the manner provided by the Secretary; certificates of authority ~~registrations~~ shall remain in effect unless revoked or suspended by the Secretary or voluntarily withdrawn by the title insurance agent or the title insurance company that authorized the title insurance agent. ~~registrant or the title insurance agent~~ no longer has any agency agreement with a title insurance company.

**(215 ILCS 155/18.2 new)**

**Sec. 18.2. Title insurance rate.**

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

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

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

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

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

(2) Rates shall be separated into classes based on monetary insurance ranges without distinction of commercial or residential use of the property.

(3) From the owner's policy premium, loan policy premium, minutes of foreclosure and residential real property endorsement charges, which does not include closing protection letter charges, a title agent shall retain 80% and remit 20% to a

title insurance company if services are performed by the title insurance agent to at least (i) determine insurability of title, which includes title examination and title clearance, and (ii) issue title insurance commitments, minutes of foreclosure, policies, and endorsements. For endorsement

charges that are not for residential real property as defined in Section 3 of this Act, which does not include closing protection letter charges, a title agent shall retain 80% and remit 20% to a title insurance company

provided the title agent is authorized pursuant to its agency contract to issue the endorsement and completes the work necessary to issue the endorsement. If the title agent is not authorized pursuant to its agency agreement to issue the endorsement and does not complete the work necessary to issue the endorsement, the title agent shall ~~retain 0% and remit 100% of the charge to a title insurance company not be entitled to compensation.~~

(4) Any fees charged to the parties to the transaction Other than the owner's policy premium, loan policy

**Commented [ST2]:** Here, and in the paragraph farther down, ATG has modified its position and dropped its proposed language of "no more than/no less than." ATG is supporting ILTA's original language of 80%/20% agent/underwriter split on the title insurance premium.

premium, minutes of foreclosure  
and endorsement charges shall not be retained or remitted  
between a title insurance company and title insurance  
agent, or with any other entity or individual, unless the  
charges are being retained or remitted in an amount  
directly related to services actually performed.

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

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

**Sec. 21.** Regulatory action.

(a) The Secretary 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:

. . . .

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

**Commented [BA3]:** This paragraph shows the change to Senate Amendment 1, but it also changes the language from Senate Amendment 2.

to another Producer of title business on the express or implicit condition that the Producer of title business to whom that consumer is referred use the affiliated title insurance company or title insurance agent of the party referring that consumer;

. . . .

(5.5) has paid for, furnished or offered to pay for or furnish any reward or compensation for any past, present, or future title insurance business or closing and settlement services or any other title business, including, but not limited to, the payment of a fee to ~~an attorney~~ a Producer of title business for the referral of title business;

. . . .

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

(A) There must be a written service agreement between a title agent and any entity providing any closing, title, or ancillary related services on behalf of a title agent. Pursuant to this written service agreement, a service fee must be charged to the title agent and paid by the title agent to the service provider. The service fee charge is in addition to any

search fee charged to the title agent and cannot be added on to the charges to the seller, buyer, borrower, or lender, and such charge must be commensurate with the value of the work performed. The charge for a service fee shall be no

less than \$350 for transactions involving property in Zone 1 as defined in Section 16 of this Act; and

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

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

. . . .

(7) ordinary and ~~customary-reasonable~~ business entertainment or promotional activities with reasonable frequency ~~not to exceed \$100 in value per person, per event~~ by title insurance companies, title insurance agents, or independent escrowees that are not directly or indirectly consideration as an inducement or compensation for the referral of title business or for the referral of any escrow or other service from a title insurance company, title insurance agent, or independent escrowee.

**Commented [ST4]:** ATG has modified its position to reflect the necessity of a base charge of \$350 in Zone 1, while retaining our proposed language for Zone 2, where we believe that the \$350 charge will not be feasible for title agents in some areas of the state.