



2022 STATE LAW UPDATE

ILTA ADVOCACY IN ACTION

Regulatory Oversight

Implementation of Legislation

New 2022 Laws

2023 Legislation

2022
REGULATORY
OVERSIGHT

&

IMPLEMENTATION
OF
LEGISLATION

Financial
Disclosures

Remote
Notarization

FINANCIAL DISCLOSURES

DS-I Form Litigation Settled May 20th ([click here](#))

Who this impacts?

- Are you making a title insurance referral?
- Who are you making the referral to?
- Do you own them?

Settlement clarification from IDFPR

- Receipt of only premium percentage does not equal ownership
- Solo attorney, not part of a law firm entity, and registered as an individual agent does not trigger DS-I requirements

”Old” DS-I Form Remains in Effect ([click here](#))

Updates Available in ILTA News ([click here](#))

FINANCIAL DISCLOSURES CONT.

Current Disclosure Requirements

* Owner's Title Policy: \$ _____

* Mortgage Title Policy: _____

Escrow or Closing Fee: _____

Other Fees: _____

Total Estimated Charges: \$=====

Disclosure Requirements Subject to Litigation

ESTIMATED SELLER AND BUYER TITLE AND ESCROW CHARGES

Products	Estimated Seller Charges	Estimated Buyer Charges
1. Owners title insurance policy premium	\$	\$
2. Loan title insurance policy premium	\$	\$
3. Abstracting, searching, examining	\$	\$
4. Preliminary report, commitment, etc.	\$	\$
5. Closing escrow, settlement, etc.	\$	\$
Total estimated title and escrow charges	\$	\$

PLEASE NOTE: [NAME OF PRODUCER] IS ESTIMATED TO RECEIVE ___ % (OR \$ _____) OF THE OWNER'S POLICY PREMIUM; and [NAME OF PRODUCER] IS ALSO ESTIMATED TO RECEIVE ___% (OR \$ _____) OF THE LOAN TITLE POLICY PREMIUM

REMOTE NOTARIZATION

- Proposed Rule Public Comment Period Open Through May 2022 ([click here](#))
- ILTA Public Comment submitted ([click here](#))
- Estimated Implementation August 2022

2022

ILLINOIS

REGISTER

Rules of
Governmental Agencies



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([see page 5874, Ill. Reg. Vol. 46, Issue 16](#))

REMOTE NOTARIZATION

- ILTA Working Group Public Comment ([click here](#)):
 - Standards for remote, online vendor approval;
 - Identity authentication standards;
 - Certification standards to distinguish remote notarized documents;
 - Privacy and storage standards/requirements;
 - Notary commission issuance and renewal requirements; and
 - Cost and fees separate from remote, online vendor charges.

REGULATORY
OVERSIGHT

Unlawful
Covenants

“Junk Fee”
Assessments

UNLAWFUL RESTRICTIVE COVENANTS

- Beginning January 1, 2022, property owners and related associations may “file a restrictive covenant modification to an unlawful restrictive covenant,” see [Public Act 102-110](#).
- “If the State's Attorney's written determination finds that the instrument contains an unlawful restrictive covenant, the recorder shall record the restrictive covenant modification with the language stricken as directed by the State's Attorney”
- Most counties have no process in place to modify and re-record documents
- ILTA working group to recommend uniform forms and process ([click here](#))

“JUNK FEE” ASSESSMENTS

- [U.S. Consumer Financial Protection Bureau \(Feb. 2022\)](#): “...many closing costs, like title insurance, may not always be subject to standard or appropriate competitive forces.” For the CFPB, “junk fees” to consumers may include:
 - Fees for things you believed were covered by the baseline price of a product or service;
 - Unexpected fees for a product or service;
 - Fees that seemed too high for the purported service; and
 - Fees where it was unclear why they were charged.
- [American Land Title Association \(Mar. 2022\)](#): “If the CFPB sees a clear need to address so-called “junk fees,” it should use the rulemaking process to first clearly define a “junk fee” and then develop clear regulatory requirements addressing them.”



NEW 2022 LAWS

- Commercial Real Estate Transactions
- Contractor Wage Payments
- County Recorder Technology
- Residential Real Property Disclosures
- Real Estate Value Task Force

NEW 2022 LAWS CONT.

- **Special Warranty Deed** – new statutory form for deeds customary to commercial real estate transactions – [House Bill 4270](#) (effective January 1, 2023)
- **Contractor Wage Payments** – makes general contractor liable for subcontractor wage payment issues – House Bill [5412](#) & [4600](#) (effective immediately ~ Aug. 2022)
- **County Recorder Technology** – confirms that electronic images of the recorder's stamp satisfies the signature requirement for recorded instruments – Senate Bill 3187 (effective immediately ~ Aug. 2022)

NEW 2022 LAWS CONT.

- **Real Estate Value Task Force** – study and report on disparities in residential real estate valuations due to “underwriting standards and guidance...with respect to appraisals, non-traditional and alternative methods of providing real estate property evaluations” – [House Bill 4410](#) (report due by January 2025)
- **Residential Real Property Disclosure Report** – modifies statutory form language and some remedies, including five-day termination period for some material defects (was three days) – [House Bill 4322](#) (effective immediately ~ Aug. 2022)

2023 LEGISLATION

Attorney Consultations

Equitable Subrogation

County Clerk & Recorder Technology

Market Conduct Reform

2023 LEGISLATION

- **Attorney Consultation** – consumers paying for title insurance “have the option to consult with legal counsel before title insurance payment obligations are effective.” – [Senate Bill 1751](#)
- **Equitable Subrogation** – sets a ten-year statute of limitation on an equitable mortgage or lien and subrogation when confronted with issues such as a common mortgage defect (e.g. lack of property description) – [Senate Bill 3650](#)
- **County Clerk & Recorder Technology** – authorizes counties to implement standardized methods for digital document acceptance and storage – [Senate Bill 3770](#)
- **Market Conduct Reform** – authorizes additional regulation of title insurance rates, documentation of services, and prohibition of duplicative fees – [Senate Bill 4023](#)



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