

NEW LAW ALERT (17-06)

June 26, 2006

STATE: ILLINOIS

BILL: Senate Bill 2718

EFFECTIVE: Immediately

SIGNED: June 20, 2006

CHAPTER: 94-893

AFFECTS: Amends Act 155 of Chapter 215 of the Illinois Compiled Statutes.

CHANGES:

1. Broadens the definition of “escrow agent” to include independent contractors of a title insurance company or agent acting on behalf of a title insurance company or agent who receive deposits, in trust, of funds or documents, or both, for the purpose of effecting the sale, transfer, encumbrance or lease of real property.
2. Specifically exempts from the definition of “independent escrowee” 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.

ANALYSIS: Under prior law, Illinois Notary Signing Agents were limited to performing loan closings for lenders who handled the entire transaction without the assistance of a title company conducting the settlement, or were required to become “independent escrowees” and maintain prohibitively expensive insurance, bonds and securities in order to perform closings for title companies. With the enactment of Senate Bill 2718, Illinois NSAs are now considered lawful escrow agents who can perform closings when hired as independent contractors by a title insurance company or title insurance agent. There are thus now no restrictions on the operation of NSAs in Illinois. In addition, Senate Bill 2718 specifically excludes employees and independent contractors from the definition of “independent escrowee” under the Title Insurance Act, effectively eliminating any requirement that an NSA must become an independent escrowee in the future.