



State of Utah

DEPARTMENT OF INSURANCE

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Bulletin 2009-3

To: All Title Agency Producers
From: D. Kent Michie, Utah Insurance Commissioner & the Title and Escrow Commission
Date: May 7, 2009
Subject: Escrow Funds Deposited for Lot Reservations

A Lot Reservation is a contract between the buyer and the developer/seller and sometimes includes the real estate agent. Lot reservations are often interchangeable within the subdivision or in another subdivision owned by the developer/seller with the agreement between the developer/seller and the buyer. It is common for a potential buyer to reserve a lot based upon a proposed subdivision plat.

Title producers have previously accepted funds from potential buyers who desire to acquire a lot in a subdivision, yet to be created by the recordation of a subdivision plat. The funds were deposited with the intent to secure a right for the buyer to acquire a lot after the subdivision plat is recorded. The Department is concerned that receipt of such funds is a violation of U.C.A. 31A-23a-406, which precludes a title producer from acting as escrow unless, among other things, a policy of title insurance is to be issued as part of the transaction.

In order to preclude violating 31A-23a-406, the department expects that any funds received by a title producer from a buyer, with the intent to preserve or secure a right to acquire a lot upon recordation of a subdivision plat, must be received with a written agreement between the lot buyer and developer/seller which states that a policy of title insurance shall be issued to the buyer at the time of closing. In addition the funds received must be segregated and separately accounted for as provided in U.C.A. 31A-23a-406.

DATED this 7th Day of May 2009.

D. Kent Michie
Insurance Commissioner