



State of Utah

GARY R. HERBERT

Governor

GREG BELL

Lieutenant Governor

NEAL T. GOOCH

Insurance Commissioner

Insurance Department

BULLETIN 2010-5

To: All Title Agencies and Title Producers
From: Neat T. Gooch, Utah Insurance Commissioner
Date: June 21, 2010
Subject: **Short Sale Transactions**

The purpose of this bulletin is to notify all title agencies, title producers and employees of title agencies that the negotiation of a short sale transaction is prohibited. This includes assembling, facilitating or processing documentation required by the short sale lender. An example of prohibited documentation includes but is not limited to, seller financial information, (bank statements, paystubs, tax returns), hardship letter and accompanying support documentation, or a listing agreement. Accepting or making telephone calls to the short sale lender in behalf of a real estate agent or seller, advising a seller in a short sale transaction, or marketing services or materials that promote short sale negotiation is also prohibited.

As with any transaction, your responsibilities shall remain within the scope of your duties. The standard of care for any transaction also applies to short sale transactions. Your responsibilities include but are not limited to:

1. Issuing a commitment for title insurance,
2. Obtain authorization as required in order to clear title, (i.e. payoffs, special assessments, HOA dues, liens and judgments),
3. Obtain a complete REPC or purchase contract with all addendums,
4. Conduct the closing,
5. Disburse and record as required, and
6. Issue a title policy.

In order to negotiate a short sale transaction a person must hold an active real estate license. A dual licensee of a title license and a real estate license must request and receive permission in writing from the Commissioner in order to utilize both licenses in a transaction as described in UCA 31A-2-405. An attorney (including employees of an attorney) who is also a title licensee must have an attorney client agreement for work performed outside of the title agency relationship.

Any title agency, title producer or employee of a title agency who negotiates a short sale will be subject to enforcement by the Division of Real Estate for "unlicensed activity" under UCA 61-2-1 and UCA 61-2-2(12). Enforcement action taken against a title agency or title producer by the Division of Real Estate will be referred to the Insurance Department for further investigation.

This bulletin is not intended to discourage the working relationship between the title industry and real estate industry, but rather to clarify responsibilities. Assistance with training and education of the real estate industry by the title industry is a permitted practice in that it serves the combined purpose of serving the consumer.

A title agency or title producer found negotiating short sale transactions will be in violation of UCA 31A-23a-402(8)(a) and R592-6-4(6) and will be subject to enforcement actions that may include monetary penalties, license suspension or license revocation.

DATED this 21 day of June, 2010

A handwritten signature in cursive script, appearing to read "Neal T. Gooch", is written above a horizontal line.

Neal T. Gooch
Insurance Commissioner