



Insurance Department

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

D. KENT MICHIE
Insurance Commissioner

BULLETIN 2010-8

TO: All Title Insurance Producers and Insurers Licensed in Utah

FROM: Neal T. Gooch, Insurance Commissioner & the Title & Escrow Commission

SUBJECT: **Closing instructions requiring a Title Producer to “Certify” that, when recorded, a Deed of Trust will constitute a valid First Lien against the property.**

This bulletin replaces Bulletin 93-2 of the same name.

It has come to the attention of the Insurance Department that various mortgage lenders, in their written closing instructions to title insurance producers, are requiring the producer to “certify” that when the deed of trust is recorded it will constitute a valid first lien against the mortgaged property. The assumption by a title producer of additional liability through “certifying” or “guaranteeing” that a mortgage or trust deed would constitute a valid first lien on the mortgaged property when recorded, is the “business of insurance” as defined in Utah Code Annotated Section 31A-1-301(85)(g).

Although a title producer may issue title insurance as the producer of an authorized title insurer, the producer may not act as an insurer by providing an additional guaranty or assurance regarding the position of a lien. If a producer accepts such instructions, that producer is acting as an “unauthorized insurer” in violation of Section 31A-1-301(163).

It is expected that title producers thoroughly review their closing instructions and not accept instructions that place them in the position of an insurer.

Please review this bulletin with those individuals in your agency who are licensed to conduct closings and other personnel who are involved in the process.

DATED this 6th day of December 2010.

Neal T. Gooch
Insurance Commissioner