

**State of Utah**  
**Administrative Rule Analysis**  
 Revised June 2021

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
<b>Title No. - Rule No. - Section No.</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R592-14</b>	<b>Filing ID (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>	<b>R</b>	

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Title and Escrow Commission	
<b>Room no.:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R592-14. Unfair or Deceptive Acts or Practices Affecting Title to Real Property
<b>3. Purpose of the new rule or reason for the change</b> (Why is the agency submitting this filing?):
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended. The Title & Escrow Commission approved these changes in a November 8, 2021 meeting by a vote of 3-0.
<b>4. Summary of the new rule or change</b> (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Others are changes to make the language of the rule more clear. The Severability section is being updated to use the department's current language, and the Enforcement Date section is being removed because the rule is currently being enforced. The changes do not add, remove, or change any regulations or requirements.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

**G) Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

**6. A) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**B) Department head approval of regulatory impact analysis:**

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

**Citation Information**

**7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 31A-2-404(2)	Subsection 31A-23a-406(8)	

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	

<b>Issue, or version</b>	
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**B) This rule adds, updates, or removes the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	<b>Second Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until</b> (mm/dd/yyyy):	01/03/2022	
<b>B) A public hearing (optional) will be held:</b>		
<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

<b>10. This rule change MAY become effective on</b> (mm/dd/yyyy):	01/10/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

**Agency Authorization Information**

**To the agency:** Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee, and title:</b>	Steve Gooch, Public Information Officer	<b>Date</b> (mm/dd/yyyy):	11/08/2021
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**R592. Insurance, Title and Escrow Commission.**

**R592-14. ~~[Delay or Failure to Record Documents and the Insuring of Properties with the False Appearance of Unmarketability as Unfair Title Insurance Practices]~~ Unfair or Deceptive Acts or Practices Affecting Title to Real Property.**

**R592-14-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to ~~[Section-]~~Subsections 31A-2-404(2) and 31A-23a-406(8).

**R592-14-2. Purpose and Scope.**

(1) The purpose of this rule is to ~~[prohibit intentional delay, neglect or refusal by insurers, through their agents, to record or deliver for recording documentation necessary to support policy insuring provisions, resulting in the false appearance of unmarketability, in the record-only, of property which would otherwise be marketable. This practice is deemed to be an unfair or deceptive act or practice detrimental to free competition in the business of insurance and injurious to the public]~~ identify a misleading, unfair, or deceptive act or practice affecting title to real property.

(2) This rule applies to a ~~[H]~~ title insurance company~~[ers]~~, an agency title insurance producer~~[s]~~, and an individual title insurance producer~~[s]~~.

**R592-14-3. Definitions.**

~~[For the purpose of this rule, the Commission adopts the definitions as particularly set forth in Section 31A-1-301 and in addition the following]~~ Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

~~[A-]~~(1) "Document" means ~~[any instrument in writing-]~~ a written instrument that:

(a) relates~~[relating]~~ to real property described in ~~[any-]~~ a title insurance policy, contract, or commitment~~[s]~~; and

(b) ~~[reasonably required for the support of the insuring provisions]~~ is required to support an insurance provision in a policy.

~~[B.](2) "Record" means to cause to be delivered to the county recorder, or other appropriate public official[as may be appropriate], [any]a document in the possession or control of [any title insurance company or title insurance agent for which]a title insurance company, an agency title insurance producer, and an individual title insurance producer when a request to record has been made by an insured party, a title insurance company, an agency title insurance producer, or an individual title insurance [agent]producer.~~

**R592-14-4. [Definition and Classification of Unfair or Deceptive Practices and Material Inducements]Prohibited Acts or Practices Affecting Title to Real Property.**

~~[A. Any knowing conduct by a title insurance company or title insurance agent which results in the failure, neglect, refusal to record, or to obtain for recording, any document which, unless recorded, results in the apparent unmarketability of title or a title which may not be insurable by another insurer, is defined as an unfair or deceptive act or practice as prohibited by Section 31A-23a-402.~~

~~B. The issuance or agreement to issue title insurance, or the affirmation of current marketability of title, when the possible recording of documents of title has not occurred, and the record does not manifest a title which would be insurable according to generally accepted title insurance standards, is classified and proscribed as an advantage and material inducement to obtaining title insurance business as prohibited under Section 31A-23a-402(2)(c)(i)(D)]A title insurance company, an agency title insurance producer, and an individual title insurance producer are prohibited from engaging in the following unfair or deceptive acts or practices:~~

~~(1) knowingly failing to obtain a document for recording or knowingly failing to record a document that results in unmarketable or uninsurable title to real property; or~~

~~(2) issuing or agreeing to issue title insurance, or affirming current marketability of title to real property when:~~

~~(a) necessary documents for title have not been recorded; and~~

~~(b) the record does not manifest an insurable title, according to generally accepted title insurance standards.~~

**R592-14-5. [Enforcement Date.**

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

**R592-14-6. [Severability.**

~~[If any provision or clause of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of this provision to other persons or circumstances may not be affected by it]If any provision of this rule, Rule R592-14, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

**KEY: insurance law**

**Date of Enactment or Last Substantive Amendment: August 9, 2011**

**Notice of Continuation: January 9, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-2-404**