

**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>R592-15</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>
R592-15. Schedule of Minimum Charges for Escrow Services
<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 an October 18, 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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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. Other changes make the language of the rule more clear, add a definition of "title licensee", and update the Severability section to use the department's current language. Two sections are being removed: Penalties, because penalties are already provided for in statute, and Enforcement Date, because the rule is already in force. 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.

**D) Non-small businesses** ("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.)

<b>Regulatory Impact Table</b>			
<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:**

Section 31A-2-404		

**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>	

**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.)

**A) Comments will be accepted until** (mm/dd/yyyy): 12/15/2021

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY become effective on** (mm/dd/yyyy): 12/22/2021

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):	10/20/2021
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**R592. Insurance, Title and Escrow Commission.**

**R592-15. [Submission of a]Schedule of Minimum Charges for Escrow Services.**

**R592-15-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404[ ~~which requires the Commission to make rules related to title insurance~~].

**R592-15-2. Purpose and Scope.**

(1) The purpose of this rule is to establish [the]procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.

(2) This rule applies to [a]a title insurer[s], an agency title insurance producer[s], and an individual title insurance producer[s] who [are]is not an employee of a title insurer or who [are]is not designated to an agency title insurance producer that provides escrow services in Utah.

**R592-15-3. [Required Documents.**

(1) The department requires that the documents described in this section shall be used for all filings, and are available on the department's web site, <http://www.insurance.utah.gov>.

(a) "Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer"; and

(b) "Schedule of Minimum Charges for Escrow Services."

**R592-15-4. [Definitions.**

~~[In addition to the definitions of Sections 31A-1-301, 31A-2-402, and 31A-19a-102, the following definitions shall apply for the purpose of this rule.]~~ Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-19a-102. Additional terms are defined as follows:

~~(1) ["Additional escrow services" means an escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the minimum escrow charges listed in the Schedule of Minimum Charges for Escrow Services.~~

~~(2) ["Certification" means a statement that [the] a filing [being submitted is in compliance] complies with Utah laws and rules.~~

~~(3) ["Charge" means a dollar amount charged for a service rendered by a title [insurer, agency title insurance producer, or individual title insurance producer] licensee.~~

~~(4) ["Document preparation" means [the preparation or compilation of] preparing or compiling documents in connection with an escrow service[s].~~

~~(5) ["Electronic filing" or "file electronically" means:~~

~~(a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or~~

~~(b) a filing submitted via an email system by an agency title insurance producer or an individual title insurance producer.~~

~~(6) ["Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow [s] Services.~~

~~(7) ["Escrow service[s]" means [those services] a service related to a settlement[s] of a real estate transaction[s].~~

~~(8) ["File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.~~

~~(9) ["File before use" means a filing can be used, sold, or offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.~~

~~(10) ["Filer" means a person [or entity] who submits a filing.~~

~~(11)(a) ["Filing Objection Letter" means a letter issued by the commissioner when a review [has determined] determines that the filing fails to comply with Utah laws and rules.~~

~~(b) The Filing Objection Letter may[, in addition to requiring] require correction of non-compliant items[;] and request clarification or additional information pertaining to the filing.~~

~~(12) ["Letter of Authorization" means a letter signed [by an officer of the licensee on whose behalf the filing is submitted and which designates] on behalf of a title licensee that gives an individual filing authority[ to the filer].~~

~~(13) ["Long term escrow" means a "For Benefit Of" (FBO) account that is for the purpose of payment collection and administration of seller financed transactions, as described by an escrow agreement.~~

~~(14) ["Mini escrow" means an escrow settlement service conducted by an agency title insurance producer to clear a title, obtain payoffs and record necessary closing documents for a lender that performs his or her own closing service.]~~

~~(15) ["Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services [that are] rendered.~~

~~(16) ["Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.~~

~~(17) ["Other settlement service[s]" means an additional service[s] not specifically listed in the Schedule of Minimum Charges for Escrow Services.~~

~~(18) ["Rejected" means a filing is:~~

~~(a) not submitted in accordance with Utah laws and rules;~~

~~(b) returned to the filer by the department, with the reasons for rejection; and~~

~~(c) not considered filed with the department.~~

~~(19) ["Title licensee", for purposes of this rule, means a title insurance company, an agency title insurance producer, or an individual title insurance producer.~~

#### **R592-15-4. Required Documents.**

The following documents shall be used for each filing and are available on the department's website, <https://insurance.utah.gov>:

(1) "Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer"; and

(2) "Schedule of Minimum Charges for Escrow Services."

#### **R592-15-5. General Filing Information.**

(1)(a) ~~[Each filing submitted must] A filing shall~~ be accurate, consistent, complete, and contain all required documents ~~[in order]~~ for the filing to be processed in a timely and efficient manner.

(b) The commissioner may request ~~[any] additional information [deemed] as necessary.~~

(2)(a) ~~[Licensees are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.~~

~~(3) A filing that does not comply with this rule [will be rejected as incomplete] is rejected and returned to the filer.~~

(b) A rejected filing:

(i) is not considered filed with the department;

(ii) ~~[must] shall~~ be submitted as a new filing; and

(iii) will be charged a new filing fee.

(4) Prior filings ~~[will not be] are not~~ researched to determine the purpose of the ~~[current] filing.~~

(5) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

- (ii) as a result of a complaint;
- (iii) during a regulatory examination or investigation; or
- (iv) ~~at any other~~ time the department ~~deems~~ determines a review is necessary.

(b) ~~If a filing is reviewed and is not in compliance with Utah laws and rules, a Filing Objection Letter or an Order to Prohibit Use will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in rating practices to affected consumers.]~~ When a Filing Objection Letter or Order to Prohibit Use is issued, a title licensee may be required to disclose the deficiencies to each affected consumer.

~~(6)(a)5~~ Filing corrections ~~are considered informational~~.

~~(b)a~~ Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. The filer must reference the original filing. If the filing is in an open status, correction can be made at any time.

~~(e)b~~ A new filing is required if a filing correction is made more than 15 days after the date of the original filing was submitted to the department. The filer must reference the original filing. If the filing is in a closed status, a new filing is required.

(c) The filer must reference the original filing in the filing description.

~~(7)6~~ ~~If~~ When responding to a Filing Objection Letter or an Order to Prohibit Use, ~~refer to~~ a filer shall comply with Section R592-15-9.

~~(8)7~~ A filer must notify the department when withdrawing a ~~previously filed rate~~ previous filing.

### R592-15-6. Filing Requirements.

(1) ~~A title insurer, agency title insurance producer, or individual title insurance producer who is not an employee of a title insurer or who is not designated to an agency title insurance producer.]~~ The following shall electronically file a Schedule of Minimum Escrow Service Charges;

~~(a)~~ a title insurer;

~~(b)~~ an agency title insurance producer; and

~~(c)~~ an individual title insurance producer who is:

~~(i)~~ not an employee of a title insurer; or

~~(ii)~~ not designated to an agency title insurance producer.

(2) Only an individual who is authorized to act on behalf of ~~the insurer, agency title insurance producer or individual title insurance producer can~~ a title licensee may submit a filing.

(3)(a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day ~~the initial schedule~~ it is filed.

(b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:

(i) 30 ~~[-]~~ calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or

(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.

(4) ~~All~~ Each filing[s] must be submitted as an electronic filing via:

(a) email; or

(b) SERFF.

(5) ~~Email Filing:~~ A complete email filing consists of the following:

(a) an email ~~with a title showing the name of~~ naming the filer and stating that it is an escrow rate filing in the title of the email;

(b) ~~Utah~~ a complete Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer, ~~completed and~~ containing ~~the following items~~ a complete filing description in the following order:

(i) ~~completed filing description, contained in Section 9 of the transmittal document, with the following information presented in the order shown:~~

~~(A)~~ Certification.

~~(F)A~~ ~~The~~ A filer ~~must~~ shall certify that a filing ~~has been properly completed AND is in compliance~~ is complete and complies with Utah laws and rules.

~~(H)B~~ The filing shall include the following statement ~~must be included~~ in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

~~(H)C~~ A filing will be rejected if the certification is false, missing, or incomplete.

~~(IV)~~ a certification that is false may subject the licensee to administrative action.

~~(B)ii~~ Indicate if the filing is:

~~(F)A~~ new;

~~(H)B~~ replacing or modifying a previous submission, ~~with changes described~~ describing the changes;

~~(H)C~~ previously rejected, with reasons for rejection and previous filing's submission date; or

~~(F)D~~ previously objected to or prohibited, with reasons for resubmission[-];

(c) a Schedule of Minimum Charges for Escrow Services, completed as follows:

(i) ~~all~~ each blank field[s] must be completed;

(ii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and

(iii) ~~The~~ the Schedule of Minimum Charges for Escrow Services ~~shall~~ may not be altered[-]; and

(d) a Letter of Authorization.

(i) When the filer is not ~~the~~ a title licensee, a Letter of Authorization from the title licensee ~~must be attached~~ shall be included

with the filing.

(ii) The title licensee ~~[remains]~~ is responsible for ~~[making sure]~~ ensuring that the filing ~~[is in compliance]~~ complies with Utah laws and rules.

(e) ~~[As required by subsection]~~ Under Subsection 31A-19a-203(1)(e)(i), ~~[the]~~ a rate filing fee ~~[must]~~ shall be received by the department within ~~[5]~~ five days of the electronic submission or the filing will be rejected.

(6) ~~[SERFF Filing.]~~ A complete SERFF filing consists of the following:

(a) ~~[The completed.]~~ a complete description section on the general information tab, presented in the following order ~~[- shown below.]~~:

(i) Certification.

(A) ~~[The]~~ A filer ~~[must]~~ shall certify that a filing ~~[has been properly completed AND is in compliance]~~ is complete and complies with Utah laws and rules.

(B) The filing shall include the following statement ~~[must be included]~~ in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

~~[(D) A certification that is false may subject the licensee to administrative action.]~~

(ii) Indicate if the filing is:

(A) new;

(B) replacing or modifying a previous submission, ~~[with changes described]~~ describing the changes;

(C) previously rejected, with reasons for rejection, and previous filing's submission date; or

(D) previously objected to or prohibited, with reasons for resubmission~~[-]~~;

(b) a Schedule of Minimum Charges for Escrow Services completed as follows~~[-, and attached to the rate/rule schedule tab]~~:

(i) attach the filing to the rate and rule schedule tab;

(ii) ~~[all]~~ each blank field[s] must be completed;

(iii) if a listed service is not performed by a title licensee, the field must show "N/A" or "Not Applicable"; and

~~[(iii)iv]~~ ~~[The]~~ the Schedule of Minimum Charges for Escrow Services ~~[shall]~~ may not be altered~~[-]~~; and

(c) a Letter of Authorization.

(i) When the filer is not ~~[the]~~ a title licensee, a Letter of Authorization from the title licensee ~~[must be attached]~~ shall be included with the filing.

(ii) The title licensee ~~[remains]~~ is responsible for ~~[making sure]~~ ensuring that the filing ~~[is in compliance]~~ complies with Utah laws and rules.

(d) ~~[As required by subsection]~~ Under Subsection 31A-19a-203(1)(e)(i), ~~[the]~~ a rate filing fee ~~[must]~~ shall be received by the department within ~~[5]~~ five days of the electronic submission or the filing will be rejected.

#### **R592-15-7. Charges.**

(1) ~~[Escrow Service Charges.~~

~~[(a) In accordance with subsection 31A-19a-209(3), no charge may be filed or used that would cause the filer to operate at less than the cost of doing the business of escrow.~~

~~[(b) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services [must] shall be filed.~~

(2) ~~[Other Settlement Services Charges.~~

~~[(a) Other settlement service[s] charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.~~

~~[(b) Other settlement service charges shall [must] be filed as a per hour charge.~~

~~[(3) Document Preparation Charge.]~~

(4) Only document charges shown in the Schedule of Minimum Charges for Escrow Services ~~[must]~~ shall be filed.

~~[(4) Other services [which are] not specifically listed on the Schedule of Minimum Charges for Escrow [s] Services may be [rendered] provided if a justifiable charge is [made] filed.~~

#### **R592-15-8. Correspondence and Status Checks.**

(1) ~~[When corresponding with the department, provide the following information to identify the original filing]~~ To identify the original filing, the following information shall be provided:

(a) type of filing;

(b) date of filing; and

(c) submission method~~[-, SERFF or email]~~.

(2) A filer ~~[can]~~ may request the status of its filing 60 days after the filing date ~~[- of submission]~~.

#### **R592-15-9. Responses.**

(1) A response to a Filing Objection Letter ~~[must]~~ shall include:

(a) a cover letter identifying the changes made; and

(b) revised documents with ~~[all]~~ each change[s] highlighted.

(2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing ~~[must]~~ shall be discontinued ~~[not later than]~~ by the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) Once the Order to Prohibit Use has been issued, a new filing is required if the ~~[company]~~ title licensee chooses to make the requested changes addressed in the original Filing Objection Letter~~[-The new filing must reference the previously prohibited filing].~~

**~~R592-15-10]. Penalties.~~**

~~———— A person found to be in violation of this rule shall be subject to penalties under Section 31A-2-308.~~

**~~R592-15-11. Enforcement Date.~~**

~~———— The commissioner will begin enforcing this rule 45 days from the effective date of this rule.~~

**~~R592-15-12]. Severability.~~**

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable]~~If any provision of this rule, Rule R592-15, 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: title escrow filings**

**Date of Enactment or Last Substantive Amendment: November 2, 2015**

**Notice of Continuation: March 30, 2021**

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