

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

<b>NOTICE OF PROPOSED RULE</b>		
<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>R592-16</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>
R592-16. Escrow Settlement Closing Transactions
<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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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, while others are changes to make the language of the rule more clear. The Enforcement Date section is being removed because the rule is already being enforced, and the Severability section is being updated to use the department's current language. 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)		

**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):	12/15/2021	
<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):	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.**

**R592-16. ~~Prohibited~~ Escrow Settlement Closing Transactions.**

**R592-16-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to ~~Section~~ Subsection 31A-2-404(2) ~~[, which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer].~~

**R592-16-2. Purpose and Scope.**

(1) The purpose of this rule is to identify certain escrow practices involving two or more ~~back-to-back~~ back-to-back sales and purchases of the same parcel of real property where funds from the final purchaser are received by the initial seller despite having no contractual privity, which the Commission finds may violate ~~the Insurance Code or rules, and therefore it is necessary to identify and prohibit such conduct~~ Sections 31A-23a-406 and R592-6-4.

(2) ~~[These practices include sales and purchases of the same parcel of real property where funds from the final purchaser are received by the initial seller despite having no contractual privity and those where no statutory authority exists for the title insurer, agency title insurance producer, or individual title insurance producer to conduct one or more of such escrows under Section 31A-23a-406 and Rule R592-6-4(5)].~~

~~(3) [This rule applies to [all title insurers, agency title insurance producers, individual title insurance producers and all employees, representatives, and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor];~~

- ~~(a) a title insurance company;~~
- ~~(b) an agency title insurance producer;~~
- ~~(c) an individual title insurance producer; and~~

(d) an employee, representative, or any other party working for or on behalf of a title insurance company, an agency title insurance producer, or an individual title insurance producer, whether as a full-time or part-time employee or as an independent contractor.

**R592-16-3. Definitions.**

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

(1) "Land flip" means two or more escrows involving real property where the following or similar circumstances exist:

(a) [Buyer B contracts with Seller A to buy a parcel of real property]A agrees to sell real property to B;

(b) [Buyer B then contracts with Buyer C to sell the same parcel of real property]B then agrees to sell the same real property to C;

and

(c) [Buyer B anticipates buying and selling the same parcel at or near the same time to Buyer C]B plans to buy from A and sell to

C.

**R592-16-4. ~~[Permitted Escrows of Flip Transactions]~~Prohibited Escrow Involving a Land Flip.**

[Title insurers, agency title insurance producers, and individual title insurance producers are permitted to-]A title insurance company, an agency title insurance producer, or an individual title insurance producer may not conduct escrow[s] involving a land flip [if] unless:

(1) each real estate transaction stands on its own; and[the following conditions are met:]

([1]2) [Buyer B, in the transaction with Seller A, must use funds-]the funds used in each transaction are separate and distinct from the funds used [by Buyer C as part of the transaction between Buyer B and Buyer C]in a subsequent transaction.

**R592-16-5. ~~[Prohibited Escrows of Flip Transactions].~~**

Except as allowed under R592-16-4, title insurers, agency title insurance producers, and individual title insurance producers are prohibited from conducting any escrows involving a land flip.

**R592-16-6. Enforcement Date.**

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

**R592-16-7. ~~]Severability.~~**

[If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may 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 R592-16, 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: escrow insurance flip**

**Date of Enactment or Last Substantive Amendment: December 8, 2014**

**Notice of Continuation: November 25, 2019**

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