

**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>R592-8</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>
R592-8. Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing
<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 August 9, 2021 meeting by a vote of 5-0.
<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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 and to make the language of the rule more clear. It also updates the Severability section to use the department's current language. It does 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 clerical in nature and do not add, remove, or change regulations.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. This rule applies to insurance licensees and has no bearing on 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 clerical in nature and do not add, remove, or change regulations.
<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 clerical in nature and do not add, remove, or change regulations.

**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 clerical in nature and do not add, remove, or change regulations.

**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. Any affected persons are already required to comply with the provisions of the rule, and the changes do not add, remove, or change regulations.

**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			
Fiscal Cost	FY2022	FY2023	FY2024
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	Section 31A-23a-204	

**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*):

	First Incorporation
<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): 10/01/2021

**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): 10/08/2021

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):	08/13/2021
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**R592. Insurance, Title and Escrow Commission.**

**R592-8. Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing.**

**R592-8-1. Authority.**

This rule is promulgated by the Title and Escrow Commission pursuant to Sections 31A-2-404 and 31A-23a-204 ~~which authorizes the Commission to make rules for the administration of the provisions in this title related to title insurance and Section 31A-23a-204 which authorizes the Commission to make a rule to exempt attorneys with real estate experience from the three year licensing requirement to license an agency title insurance producer~~.

**R592-8-2. Purpose and Scope.**

(1) The purpose[s] of this rule ~~are~~ is to:

(a) ~~to~~ delegate to the ~~C~~ commissioner preliminary approval or denial of a request for an attorney exemption;

(b) ~~to~~ provide ~~a description of the types of~~ acceptable real estate experience that ~~could~~ may be used by an attorney seeking ~~to qualify for the~~ an exemption;

(c) ~~to~~ provide a process to apply for ~~a request for~~ an attorney exemption; and

(d) ~~to~~ provide a process to appeal a denial of ~~a request for~~ an attorney exemption.

(2) This rule applies to ~~all attorneys~~ an attorney seeking an exemption under ~~the provisions of~~ Section 31A-23a-204.

**R592-8-3. Definitions.**

Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-23a-10. Additional terms are defined as follows ~~in~~

addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-23a-102, the following definitions shall apply for the purposes of this rule]:

- (1) "Attorney" means a person licensed, ~~and~~ in good standing, with the Utah State Bar.
- (2) "Real estate experience" includes:
  - (a) law firm transactional experience consisting of any ~~or all~~ of the following:
    - (i) real estate transactions, ~~including~~ drafting documents, reviewing and negotiating contracts of sale, ~~including~~ real estate purchase contracts (REPC), commercial transactions, residential transactions;
    - (ii) financing and securing construction and permanent financing;
    - (iii) title review, due diligence, consulting and ~~negotiations~~ negotiating with title companies, researching and drafting ~~opinions of~~ title opinions, coordinating with title companies, pre-closing;
    - (iv) zoning, development, construction, homeowners' associations, subdivisions, condominiums, planned unit developments;
    - (v) conducting closings; and
    - (vi) estate planning, ~~and~~ probate-related transactions and conveyances.
  - (b) law firm litigation experience consisting of any ~~or all~~ of the following:
    - (i) foreclosures;
      - (A) judicial and non-judicial;
      - (B) homeowner association (HOA) lien foreclosure;
    - (ii) ~~either side of~~ homeowner vs. HOA litigation;
    - (iii) state construction registry litigation, ~~[-]~~ mechanics lien filing and litigation;
    - (iv) real estate disputes or litigation involving:
      - (A) a real estate contract;
      - (B) a boundary line;
      - (C) a right[s] of way, an easement, or both ~~and/or easement~~;
      - (D) a zoning issue;
      - (E) a property tax issue;
      - (F) a title issue or claim;
      - (G) ~~a landlord/tenant issue~~ an issue between a landlord and a tenant; and
      - (H) an estate ~~and~~ or probate litigation, or both, involving real property assets, claims, and disputes.
  - (c) non-law firm experience consisting of any ~~or all~~ of the following:
    - (i) real estate agent, broker, developer, investor;
    - (ii) mortgage broker;
    - (iii) general contractor;
    - (iv) professor or instructor teaching real estate licensing, real estate contracts, or real estate law;
    - (v) lender involved with any ~~or all~~ of the following real estate lending activities:
      - (A) lending;
      - (B) escrow; or
      - (C) foreclosure;
    - (vi) private lender;
    - (vii) in-house counsel involved in real estate transactions for bank, mortgage lender, credit union, title company, or agency title insurance producer;
    - (viii) employment with or counsel to a government agency involved in regulation of real estate, such as HUD, FHA, zoning, tax assessor, county recorder, insurance department, and ~~F~~ federal or state legislatures;
    - (ix) escrow officer;
    - (x) title searcher; or
    - (xi) surveyor; and
    - (d) other experience with real estate not included in Subsections (a), (b), and (c) ~~above~~.

#### **R592-8-4. Delegation of Authority.**

The Commission hereby grants to the commissioner its preliminary concurrence ~~to the~~ for approval or denial of ~~a request for~~ an attorney exemption ~~requested by an attorney pursuant to~~ under Section 31A-23a-204 ~~to the Utah Insurance Commissioner~~.

#### **R592-8-5. Request for Exemption Process.**

(1) An individual title licensee, who is an attorney ~~as defined in this rule desiring to obtain~~ seeking an agency title insurance producer license under ~~the exemption provided in~~ Subsection 31A-23[A]a-204(1)(c), shall ~~make a request for exemption to the Commissioner in accordance with the requirements of this subsection.~~

~~(2) The applicant will~~ submit a letter addressed to the Commission:

- (a) requesting an exemption from the licensing time period requirements in Subsection 31A-23a-204(1)(a) ~~(4)~~; and
- (b) providing the following information:
  - (i) the applicant's name, mailing address, ~~and~~ email address, telephone number, and title license number;
  - (ii) a description of the applicant's real estate experience; and

(iii) a statement explaining why the applicant feels ~~that~~ the experience qualifies the applicant for the exemption.

~~(3)2~~ The ~~[C]~~commissioner ~~will~~ shall review the request for exemption within five business days of its receipt, and:

(a) request additional information from the applicant, if necessary;

(b) preliminarily approve the request for exemption; or

(c) preliminarily disapprove the request for exemption.

~~(4)3~~ The ~~[C]~~commissioner ~~will~~ shall report monthly to the Commission ~~all~~ any preliminarily approved or denied requests for exemption received and reviewed ~~since the previous Commission meeting~~.

~~(5)4~~ The Commission ~~will~~ shall concur or ~~non~~ not concur with the ~~[C]~~commissioner's preliminary approval or denial of a request for exemption.

~~(6)5~~ If the ~~[C]~~commissioner's preliminary denial of a request for exemption is concurred with by the Commission, the ~~[C]~~commissioner will:

(a) notify the applicant of the denial; and

(b) inform the applicant of the applicant's right to a hearing.

~~(7)6~~ If the ~~[Commissioner's]~~ Commission concurs with the commissioner's preliminary approval of a request for exemption ~~is concurred with by the Commission~~, the ~~[C]~~commissioner will expeditiously notify the applicant to submit an electronic license application and pay ~~the~~ any required fee~~s and~~ or assessment~~s~~.

~~(8)7~~ If the Commission does not concur with the commissioner's preliminary approval or preliminary denial, the applicant shall be informed of the applicant's right to a hearing.

**~~R592-8-6]. Penalties.~~**

~~\_\_\_\_\_ A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

**~~R592-8-7. Enforcement Date.~~**

~~\_\_\_\_\_ The Commission will begin enforcing this rule on the rule's effective date.~~

**~~R592-8-8]. Severability.~~**

~~[If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.]~~ If any provision of this rule, Rule R592-8, 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: attorney exemption application process**

**Date of Enactment or Last Substantive Amendment: March 10, 2014**

**Notice of Continuation: June 10, 2019**

**Authorizing, and Implemented or Interpreted Law: 31A-1-301; 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-102; 31A-23a-204**