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[~~l~~] 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[~~,~~]; 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) failing to obtain a document for recording or 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 the current marketability of title to real property when:

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

(b) the recording does not manifest an insurable title.

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.

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