



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Insurance Department

JONATHAN T. PIKE
Insurance Commissioner

Title & Escrow Commission Meeting

(<https://insurance.utah.gov/licensee/title/tec>)

Date: February 12, 2024

Place: In Person

Virtual

Time: 9:00 AM

Taylorsville SOB
4315 S. 2700 W.
Flaming Gorge Room
Taylorsville, UT 84129

Google Meet
meet.google.com/tyw-cgnx-rbu
224-442-3369 Phone
507 442 210# Password

ATTENDEES

TITLE & ESCROW COMMISSION

Chair, Kim Holbrook (*Insurer, Davis County*) Nathan Sprague (*Insurer, Utah County*)
Vice Chair, Jeff Mathews (*Public, Morgan County*) Tina Williams (*Agency, Juab County*)
Kevin Parke (*Agency, Salt Lake County*)

DEPARTMENT STAFF

Jon Pike, *Insurance Commissioner* Reed Stringham, *Deputy Comm.* Tracy Klausmeier, *P&C Dir.*
Randy Overstreet, *Licensing Mgr.* Patrick Lee, *Finance Dir.* Kelly Christensen, *P&C Asst. Dir.*
Michael Covington, *CE Specialist* Steve Gooch, *PIO Recorder*

AGENDA

General Session: (Open to the Public)

- **Welcome** / Kim Holbrook, Chair
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
- **Concurrence Reports** / Kim
 - Licenses
 - Continuing education
- **Update on 2024 Goals**
 - ULTA report / Kim
- **New Business**
 - Department concurrence with R592-6 / Reed
 - 31A-23a-204(1)(c) agency title insurance producer licensing requirements / Kim
- **Old Business**
- **Other Business**
 - Legislative update / Reed
 - Addition of capital requirements to 31A-23a-204 / Kim
- **Hot Topics**

Executive Session (None)

- **Adjourn**
- **Next Meeting: March 11, 2024** — Flaming Gorge Room, Taylorsville State Office Building

2024 Meeting Schedule

Jan 22 Flaming Gorge	Feb 12 Flaming Gorge	Mar 11 Flaming Gorge	Apr 8* Flaming Gorge	May 13 Flaming Gorge	Jun 10 Flaming Gorge
Jul 8 TBD	Aug 19 TBD	Sep 9 TBD	Oct 21* TBD	Nov 18 TBD	Dec 9 TBD

*Proposed TEC/REC meeting immediately following

2024 Goals

1. Continue making sure continuing education and testing are relevant
2. Continue working with the Real Estate Commission
3. Continue working with the ULTA as a liaison
4. Increase awareness of cyber and wire fraud's effect on consumers and agencies
5. Increase awareness of affiliated business arrangements (ABA)
6. Increase consumer awareness of the role a title insurance company plays in a real estate transaction
7. Increase industry's awareness of the marketing rule and how to ask questions

**Title Agency Licensing
Jan 2024**

New licenses

Agency ID	Name	Orig. Issue Date	Expire Date	LOA
(none)				

Renewal Licenses

Agency ID	Name	Orig. Issue Date	Expire Date	LOA
14929	ABSOLUTE TITLE INSURANCE AGENCY	2005-11-10	2026-01-31	TE
14929	ABSOLUTE TITLE INSURANCE AGENCY	2005-11-10	2026-01-31	TS
199813	FNC TITLE AGENCY OF UTAH, LLC	2022-01-18	2026-01-31	TE
199813	FNC TITLE AGENCY OF UTAH, LLC	2022-01-18	2026-01-31	TS
157202	GREENBRIER TITLE INSURANCE AGENCY INC	2008-01-28	2026-01-31	TE
157202	GREENBRIER TITLE INSURANCE AGENCY INC	2008-01-28	2026-01-31	TS
157191	HIGHLAND TITLE AGENCY	2008-01-16	2026-01-31	TE
157191	HIGHLAND TITLE AGENCY	2008-01-16	2026-01-31	TMR
157191	HIGHLAND TITLE AGENCY	2008-01-16	2026-01-31	TS
199907	PRIME TITLE INSURANCE AGENCY, LLC	2022-01-31	2026-01-31	TE
199907	PRIME TITLE INSURANCE AGENCY, LLC	2022-01-31	2026-01-31	TS

Lapsed Licenses

Agency ID	Name	Orig. Issue Date	Expired Date	LOA
174170	WOODLAND TITLE & ESCROW INC	2014-01-21	2024-01-31	TS

Reinstated Licenses

Agency ID	Name	Orig. Issue Date	Expire Date	Reinstated	LOA
(none)					

**Title Agent Licensing
Jan 2024**

New Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
2092229	STEWART, KADEN	2024-01-25	2026-02-28	TE

Renewed Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
120157	AYRES, TROY	2005-10-17	2026-01-31	TE
31318	BATE, DAVID	1985-03-15	2026-01-31	TS
39126	BOUCK, MARLISA	1993-06-10	2026-01-31	TE
1635013	BRADLEY, SAMANTHA	2015-10-19	2026-01-31	TE
1635013	BRADLEY, SAMANTHA	2015-12-22	2026-01-31	TS
1837711	BRADSHAW, COLLETTE	2019-09-30	2026-01-31	TE
42450	BRANDLEY, MICHAEL	1999-04-06	2026-01-31	TE
42450	BRANDLEY, MICHAEL	1995-06-05	2026-01-31	TS
27958	BROWN, TERESA	1993-06-18	2026-01-31	TE
51360	BROWN, JOLYN	1994-01-06	2026-01-31	TE
1454811	BROWN, MCINSY	2011-07-14	2026-01-31	TE
53786	BRUNSON, BRIAN	1987-02-26	2026-01-31	TE
53786	BRUNSON, BRIAN	1987-02-26	2026-01-31	TS
42682	BUHLER, MARY	1999-07-08	2026-01-31	TE
41802	CARRELL, KRISTI	1999-07-22	2026-01-31	TE
41802	CARRELL, KRISTI	2023-01-30	2026-01-31	TS
40137	CARTER, BRIAN	2018-02-01	2026-01-31	TMR
30380	CHRISTENSEN, CELESTE	1990-10-02	2026-01-31	TE
1840605	CONNELLY-CRUZ, KIMBERLY	2019-09-27	2026-01-31	TE
1840605	CONNELLY-CRUZ, KIMBERLY	2020-07-02	2026-01-31	TS
37196	COPE, SCOTT	1995-10-18	2026-01-31	TS
37196	COPE, SCOTT	1995-12-12	2026-01-31	TE
1386506	DAVIDSON, RICHARD	2019-01-11	2026-01-31	TMR
1806161	DROZDIBOB, JENNIFER	2019-02-07	2026-01-31	TS
1829809	EAMES, TIFFANY	2019-07-31	2026-01-31	TE
92416	EINZINGER, BLAINE	2004-12-15	2026-01-31	TE
92416	EINZINGER, BLAINE	2003-07-21	2026-01-31	TS
42624	FEVERYEAR, WILLIAM	1999-09-29	2026-01-31	TE
42624	FEVERYEAR, WILLIAM	1995-04-17	2026-01-31	TS
1958762	FORSMAN, RICHARD	2021-06-18	2026-01-31	TMR
1938610	FRANCIS, DAVID	2021-06-17	2026-01-31	TE
1938610	FRANCIS, DAVID	2021-03-24	2026-01-31	TS
70482	GAGNON, LORI	2001-10-10	2026-01-31	TS
70482	GAGNON, LORI	2002-09-10	2026-01-31	TE
1957538	GASTELUM, ANA	2021-07-19	2026-01-31	TE
1563798	GATCHELL, ASPEN	2015-06-09	2026-01-31	TE
30989	GIBSON, JENNIFER	1997-01-03	2026-01-31	TE
30989	GIBSON, JENNIFER	1997-01-03	2026-01-31	TS

Renewed Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
1931526	GOBLE, OLIVIA	2021-04-06	2026-01-31	TE
87483	GORRINGE, MARK	2003-03-07	2026-01-31	TS
146861	GREAVES, SUMMER	2007-06-13	2026-01-31	TE
36187	HAGLUND, BRIAN	1999-05-20	2026-01-31	TE
46158	HENDRY, MARK	1993-09-03	2026-01-31	TS
46158	HENDRY, MARK	1991-12-23	2026-01-31	TE
1627121	HEPPLER, MACRAE	2015-09-03	2026-01-31	TMR
39072	HICKMAN, JAMES	1997-08-06	2026-01-31	TE
39072	HICKMAN, JAMES	2003-11-25	2026-01-31	TS
1359276	HICKS, KRISTY	2021-03-19	2026-01-31	TE
1449850	HOLT, TYLER	2013-02-20	2026-01-31	TS
1449850	HOLT, TYLER	2016-01-15	2026-01-31	TE
138303	IVINS, JONATHAN	2011-04-27	2026-01-31	TE
138303	IVINS, JONATHAN	2018-05-23	2026-01-31	TS
32167	JARRETT, JENISE	2005-09-07	2026-01-31	TE
117977	KAY, JENNIFER	2007-05-31	2026-01-31	TE
117977	KAY, JENNIFER	2005-09-06	2026-01-31	TMR
1543736	KNIGHT, TIFFANY	2015-02-17	2026-01-31	TS
95364	KRAMER, BRANDY	2003-10-22	2026-01-31	TE
1353257	MAY, CASEY	2021-03-15	2026-01-31	TE
45265	MILLER, PAMELA	1991-12-26	2026-01-31	TE
1526837	Mendoza, Victoria	2013-05-23	2026-01-31	TE
96273	PHILLIPS, MICHAEL	2006-12-28	2026-01-31	TE
96273	PHILLIPS, MICHAEL	2005-04-19	2026-01-31	TS
96273	PHILLIPS, MICHAEL	2003-11-21	2026-01-31	TMR
44615	POULTON, LAMARR	2009-07-13	2026-01-31	TMR
1513053	Pratt Ramsay, Erika	2013-02-26	2026-01-31	TS
94556	ROBERTS, KENNETH	2015-07-27	2026-01-31	TE
94556	ROBERTS, KENNETH	2003-09-25	2026-01-31	TMR
1340227	SCHILD, SUZANNE	2007-09-26	2026-01-31	TS
1878376	SCOTT, CASEY	2021-02-16	2026-01-31	TMR
31130	SEEGMILLER, BRAD	1991-11-19	2026-01-31	TE
1476678	SIMPSON, AMBER	2012-01-03	2026-01-31	TE
1990669	SWITZER, TAMRA	2021-10-20	2026-01-31	TE
31544	TAPP, KRIS	1997-08-04	2026-01-31	TE
117156	THOMPSON, NICK	2005-08-16	2026-01-31	TE
1614241	WILLIAMS, VICTORIA	2015-09-14	2026-01-31	TE
1614241	WILLIAMS, VICTORIA	2017-04-18	2026-01-31	TS

Lapsed Licenses

Agent ID	Name	Orig. Issue Date	Expired Date	LOA
1939685	HAWK, AMBER	2021-09-27	2023-12-31	TE
35859	KIMBALL, SARAH	2000-01-24	2023-12-31	TS
35859	KIMBALL, SARAH	2001-04-18	2023-12-31	TE

Lapsed Licenses

Agent ID	Name	Orig. Issue Date	Expired Date	LOA
38692	LARSEN, TRENT	2011-08-15	2023-12-31	TMR
38692	LARSEN, TRENT	1992-11-25	2023-12-31	TS
38692	LARSEN, TRENT	1992-11-25	2023-12-31	TE
1709752	LEON, KIM	2017-06-23	2023-12-31	TMR
117614	MOORE, HOLLY	2005-08-25	2023-12-31	TE
1857667	PETERMANN, TANIESHA	2019-12-23	2023-12-31	TS
44068	RODMAN, ROBERT	1973-07-01	2023-12-31	TS
44068	RODMAN, ROBERT	1973-07-01	2023-12-31	TE
45361	SNYDER, MARK	1987-04-01	2023-12-31	TS
1958125	Tesseyman, Alyssa	2021-06-17	2023-12-31	TE
32567	ULIBARRI, KERRI	1998-07-28	2023-12-31	TE
1970307	WARTHER, DARRYL	2021-08-03	2023-12-31	TMR
93461	WRIGHT, DUSTIN	2003-08-21	2023-12-31	TE

Reinstated Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	Reinstated	LOA
149138	BURROWS, HEATHER	2007-08-30	2025-12-31	2024-01-09	TS
149138	BURROWS, HEATHER	2008-06-17	2025-12-31	2024-01-09	TE
1965447	CRUZ, KAIT	2021-09-02	2025-11-30	2024-01-22	TS
35166	HEINER, BLAKE	1981-03-26	2003-03-31	2024-01-09	TE
35166	HEINER, BLAKE	1981-03-26	2003-03-31	2024-01-09	TS
1701738	LOPEZ, DESERAE	2017-05-12	2025-12-31	2024-01-10	TE
89392	TRAN, YVONNE	2003-04-24	2025-09-30	2024-01-16	TMR

Approval Date	4th Quarter Nov 2023 -Jan 2024 Approved Title Courses	Provider Name	Totals	Comments
Nov-23			9	
11/1/23	A Look at Modern Payment Rails and Impact on Good Funds Laws	American Land Title Association		
11/1/23	November 2023 Closer Training	Southern Utah Title Ins. Co.		
11/7/2023	Selling and Transferring Water	Utah Land Title Association		
11/20/2023	The Top 10 Ways to Lose Your License	Old Republic National Title Ins. Co.		
11/20/2023	Dealing with Rare and Unusual Deeds	Old Republic National Title Ins. Co.		
11/20/2023	Title Insurance Red Flags	Old Republic National Title Ins. Co.		
11/20/2023	Mining Claims and Legal Descriptions	Old Republic National Title Ins. Co.		
11/20/2023	Estates in Land	Old Republic National Title Ins. Co.		
11/22/2023	Code of Ethics	Cache Association of Realtors		
Dec-23			10	
12/4/2023	Different Real Estate Interests	Fulghum		
12/5/2023	Assumptions and Seller Financing	Utah Land Title Association		
12/6/2023	Deeds and Conveyancing of Real Property	Stewart Title Agency of Utah Inc.		
12/6/2023	Entities and Authority Issues	Stewart Title Agency of Utah Inc.		
12/6/2023	Judgments, Liens and Attachments on Real Property	Stewart Title Agency of Utah Inc.		
12/6/2023	Searching and Examining Real Estate Titles	Stewart Title Agency of Utah Inc.		
12/7/2023	Claims Steering Clear of Catastrophe	First American Title Ins. Co.		
12/22/2023	2024 Blockbuster Escrow Training Event - Day 1	Fidelity National Financial Inc.		
12/22/2023	2024 Blockbuster Escrow Training Event - Day 2	Fidelity National Financial Inc.		
12/29/2023	The Underwriter Express - Railroads and Title Insurance	Fulghum		
Jan-24			13	
1/3/2024	January 2024 Closer Training	Southern Utah Title Company		
1/3/2024	Commercial Endorsement	Fulghum		
1/5/2024	Good Funds Panel	Utah Land Title Association		
1/5/2024	Workings of the Office of the Property Rights Ombudsman	Utah Land Title Association		
1/5/2024	Hot Topics Owner's Meeting	Utah Land Title Association		
1/5/2024	State of Wire Fraud: 2022/23 Trends and Industry Forecast	Utah Land Title Association		
1/9/2024	The Marketing Code	Stewart Title Insurance Agency		

Approval Date	4th Quarter Nov 2023 -Jan 2024 Approved Title Courses	Provider Name	Totals	Comments
Jan-24			13	
1/9/2024	The Corporate Transparency Act: Does Your Company Need to File	American Land Title Association		
1/12/2024	Prosperity or Destruction- The Potential of AI	<u>Utah Land Title Association</u>		
1/12/2024	How Do I Get There? Insuring Access to and from Land	First American Title Insurance Co.		
1/12/2024	2024 ALTA Commercial Network	American Land Title Association		
1/23/2024	Breakthrough Broker	Stewart Title Insurance Agency		
1/25/2024	Underwriting a Construction Loan from A to Z	Fulghum		

Utah Insurance Department

Comments on Proposed Amendments to R592-6

The TEC has proposed to amend the rule on prohibited inducements (R592-6) and has submitted its work for the commissioner's concurrence. These are the Department's comments on the TEC's proposed amendments.

Comment 1: The regulation of shared office space is unnecessary.

The TEC proposes that the Department continue regulating shared office space. Under R592-6-4(6), if a title producer shares offices with a client (e.g. realtor, lender, builder), the licensee and the client must have:

- separate, distinct signage;
- separate, distinct public access; and
- the ability to lock and secure the title producer's office space from the client's office space.

This rule purports to allow shared office space if certain requirements are met. However, if the title producer and client must have separate signage, separate access and locking common doors, the rule in reality seems to prohibit rather than permit office sharing.

It's worth observing that sharing space is not, by itself, an unfair inducement. It is neutral. In essence, the rule prohibits an activity that is common and acceptable in any other field of business. The rule, it seems, is really intended to prevent bad actors from having the opportunity to offer or demand unfair inducements under an office sharing arrangement.

The Department questions whether this purpose justifies the prohibition. Business-friendly regulation should not bar otherwise harmless activity simply because a bad actor could decide to violate the law while engaging in that activity. This is particularly true with office sharing because other prohibitions in R592-6 will prohibit a bad actor from unfairly inducing business referrals in that environment. The prohibited acts include:

- Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction without receiving fair market payment for the services provided;
- Paying for, furnishing, or waiving all or any part of the rental or lease charge for space that is occupied by a client;
- Renting or leasing space from a client at a rate that is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area;
- Paying rental or lease charges based in whole or in part on the volume of business generated by the client;

- Furnishing all or any part of the time or productive effort of any employee of the title producer when such time or productive effort is not reasonably related to a title insurance, escrow, settlement, or closing transaction.

See R592-6-4(2)-(5), (7). With those prohibitions in place, there is no need to require separate signs, separate entrances and locking common doors when licensees and clients share space. For this reason, we think that the entire provision on shared office space (R592-6-4(6)) should be eliminated.

Comment 2: The prohibition on compensating a dual licensee is not legally authorized.

The proposed rule prohibits a title licensee from paying consideration to an employee who is a "dual licensee" – an individual who holds a title insurance license and a real estate license or mortgage lender license. R592-6-4(9). This rule is out of sync with the Insurance Code. The Code permits a dual licensee to provide a title insurance product in a real estate transaction if the commissioner approves. Utah Code Section 31A-2-405(2). However, nothing in the Code says that the dual licensee cannot be compensated for providing the product. Id. If anything, the commissioner's approval suggests that the dual licensee may be compensated. For this reason, the Department believes that the rule exceeds the scope of the Code on dual licensees and should be eliminated.

Comment 3: Suggested wordsmithing.

R592-6-3. Definitions.

(1)(a) "Business activities" include sporting events, sporting activities, musical events, ~~and~~ art events, and similar activities.

(b) "Business activities" do not include:

(i) awards banquets, recognition events, or similar activities that are sponsored by or for clients~~;~~; or

(ii) commercial travel.

R592-6-4. Prohibited Unfair Methods of Competition.

(2) Furnishing services not ~~reasonably~~ related to a bona fide title insurance, escrow, settlement, or closing transaction without receiving fair market payment for the services.

(8) Paying ~~for all or any part of the income of~~ a client or an employee of a client for a referral

(17)~~[For self-promotional open houses:]~~

(a) ~~[H]~~ Holding more than two self-promotional open houses per calendar year for each owned or occupied facility, including branch offices; or

(b) ~~[H]~~ Holding a self-promotional open house at a location other than a registered office of the title producer of business.

(22) (a) Acknowledging a wedding, a birth or adoption of a child, or a funeral of a client or a member of the client's immediate family with flowers or gifts exceeding \$150[-]; or

(b) Acknowledging any other life event of a client or a member of the client's immediate family with flowers or gifts.

R592. Insurance, Title and Escrow Commission.

R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.

R592-6-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Subsection 31A-2-404(2).

R592-6-2. Purpose and Scope.

(1) The purpose of this rule is to identify practices that constitute unfair methods of competition because the practices create unfair inducements for the placement of title insurance business.

(2) This rule applies to any person identified in Subsection 31A-23a-402(2)(a).

R592-6-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

~~[(1)]~~ (1) "Bona fide real estate transaction" means:

~~_____ (a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property;~~

~~or~~

~~_____ (b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.]~~

~~[(2)]~~(1)(a) "Business activities" include sporting events, sporting activities, musical events, and art events.

(b) "Business activities" do not include awards banquets, recognition events, or similar activities sponsored by or for clients, or commercial travel.

~~[(3)]~~(2)(a) "Business meals" include breakfast, brunch, lunch, dinner, cocktails, and tips.

(b) "Business meals" do not include awards banquets, recognition events, or similar activities sponsored by or for clients.

~~[(4)]~~(3)(a) "Client" means any person~~[, or group,]~~ who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession, or occupation of:

(i) buying or selling interests in real property; or

(ii) making loans secured by interests in real property.

(b) "Client" ~~[includes]~~ may include real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies, and ~~[the]~~ their employees, agents, representatives, and solicitors~~[, and groups or associations of any of the foregoing].~~

~~_____ (c) "Client" does not include a trade association, for the purposes of this rule.~~

~~[(5)]~~ (5) "Discount" means ~~the furnishing or offering to furnish title insurance, services constituting the business of title insurance, or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Sections 31A-19a-203 or 31A-19a-209.]~~

~~[(6)]~~(4) "Official trade association publication" means:

(a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(b) an annual, semiannual, quarterly, or monthly publication containing information and topical material for the benefit of the members of the association.

~~[(7)]~~(5) "Title insurance business" means the business of title insurance and the conducting of escrow.

~~[(8)]~~(6) "Title producer" means a title insurer, agency title insurance producer, or individual title insurance producer.

~~[(9)](7)~~ "Trade association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

R592-6-4. Prohibited Unfair Methods of Competition.

A person identified in Section R592-6-2 who provides or offers to provide, directly or indirectly, any of the following benefits to any client has violated Section 31A-23a-402 and has engaged in an unfair method of competition.

~~[—(1) Furnishing a title insurance commitment when the title producer is aware that no policy is intended to be issued without one of the following:~~

~~—(a) sufficient evidence in the file of the title producer that a bona fide real estate transaction or listing agreement exists; or~~

~~—(b) a request from a proposed insured to issue a title insurance commitment together with a payment of a minimum cancellation fee of \$200.~~

~~—(2) Paying any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect that gives rise to a claim on an existing policy.~~

~~—(3) Furnishing escrow services pursuant to Section 31A-23a-406:~~

~~—(a) for a charge less than the charge filed pursuant to Subsection 31A-19a-209(5); or~~

~~—(b) for a charge less than the actual cost of providing the services.~~

~~—(4) Waiving all or any part of established fees or charges for services that are not the subject of rates or escrow charges filed with the commissioner.]~~

~~[(5) Deferring or waiving any payment]~~(1) Waiving any charge, premium, or rate for insurance or services otherwise due and payable[, including a series of real estate transactions for the same parcel of property].

~~[(6)](2)~~ Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction[, including non-related delivery services, accounting assistance, or legal counseling] without receiving fair market payment for the services provided.

~~[(7)](3)~~ Paying for, furnishing, or waiving all or any part of the rental or lease charge for space that is occupied by [any]a client.

~~[(8)](4)~~ Renting or leasing space from [any]a client[, regardless of the purpose,] at a rate that is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by [any]the client.

~~[(9)](5)~~ Furnishing any part of a title producer's facilities, including conference rooms or meeting rooms, to a client or its trade association, for anything other than providing escrow or title services, or related meetings, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

~~[—(10) Co-habiting or sharing office space with a client of a title producer.]~~

~~—(6)~~ Sharing office space with a client when the client or title producer does not have:

~~—(a)~~ separate, distinct signage;

~~—(b)~~ separate, distinct public access; and

~~—(c)~~ the ability to lock and secure the title producer's office space from the client's office space.

~~[(11)](7)~~ Furnishing all or any part of the time or productive effort of any employee of the title producer, including a secretary, clerk, messenger, or escrow officer, to any client when such time or productive effort is not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction.

~~[(12)](8)~~ Paying for all or any part of the [salary]income of a client or an employee of [any]a client for a referral of business.

~~[(13)](9)~~ Paying, or offering to pay, either directly or indirectly, salary, commissions, or any other consideration to any employee who ~~[is-]~~at the same time ~~[licensed-]~~holds an active license as a real estate agent or real estate broker, or as a mortgage lender or mortgage company subject to Section 31A-2-405 and Rule R592-5.

~~[(14)](10)(a)~~ Payment or prepayment of the following:

(i) fees or charges of a professional, including an appraiser, surveyor, engineer, or attorney, whose services are required by any party or client to structure or complete a particular transaction; or

(ii) fees or charges of a client or party to the transaction, for example, subordination, loan, or HOA payoff request fees, that are required by any party or client to structure or complete a particular transaction.

(b) Subsection ~~[(14)](10)(a)~~ does not prohibit pre-payment of overnight mail and delivery fees~~[that will be recovered through closing a transaction].~~

~~[(15)]~~ Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food, or otherwise providing anything of value for an activity of a client, except as allowed under Section R592-6-5. Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of any kind, hunting trips or outings, golf or ski tournaments, artistic performances, and outings in recreation areas or entertainment areas.]

(11)(a) Except as provided in Subsection (11)(b), sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food, or otherwise providing anything of value for an activity of a client including:

(i) an open house at a home or property for sale;

(ii) a meeting;

(iii) a breakfast, luncheon, or dinner;

(iv) a convention;

(v) an installation ceremony;

(vi) a celebration;

(vii) an outing;

(viii) a cocktail party;

(ix) a hospitality room function;

(x) an open house celebration

(xi) a dance;

(xii) a sporting event of any kind, including a fishing trip, gambling trip, hunting trip or outing, or golf or ski tournament;

(xiii) an artistic performance; or

(xiv) an outing in a recreation or entertainment area.

(b) A title producer may attend an activity of a client if:

(i) there is no additional cost to the title producer, other than the title producer's own entry fee, registration fee, and meals; and

(ii) the fees in subsection (11)(b)(i) are not greater than those charged to a client or other person attending the function.

~~[(16)]~~ Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Section R592-6-5, or otherwise providing things of value for promotional activities of a client. Title producers may attend activities of a client if there is no additional cost to the title producer, other than their own entry fees, registration fees, and meals; the fees may not be greater than those charged to clients or others attending the function.]

~~[(17)](12)(a)~~ Providing ~~[gifts-]~~a gift or anything of value to a client in connection with ~~[social events such as birthdays or job promotions]~~a social event, such as a birthday or job promotion.

(b) A letter or card in these instances [will not be interpreted as -]is not a thing of value.

~~_____ (13) Sponsoring a trade association event at a cost that is greater than the sponsorships offered to members of the association, affiliates, vendors, or other participants of the event.~~

~~[(18)](14) Furnishing or providing [access to] the following, even for a cost:~~

- ~~(a) building plans;~~
- ~~(b) construction critical path timelines;~~
- ~~(c) "For Sale by Owner" lists;~~
- ~~(d) surveys;~~
- ~~(e) appraisals;~~
- ~~(f) credit reports;~~
- ~~(g) mortgage leads for loans;~~
- ~~(h) rental or apartment lists; or~~
- ~~(i) printed labels.~~

~~[_____ (19) Issuing a newsletter that is property specific or that highlights specific customers.~~

~~_____ (20) Providing access to real property information that the title producer pays to produce, develop, or maintain, except:~~

~~_____ (a) providing to a client, through any means including copies, a property profile that includes only the following:~~

- ~~_____ (i) the last vesting deed of public record;~~
- ~~_____ (ii) a plat map reproduction, locator map, or both;~~
- ~~_____ (iii) tax and property characteristics information from the Treasurer's and Assessor's offices; and~~
- ~~_____ (iv) covenants, conditions, and restrictions; and~~

~~_____ (b) Providing a client access to closing software that is related to a specific transaction identified in the title commitment.~~

~~_____ (21)(a) Providing title or escrow services on real property where an existing or anticipated investment loan or financing has been or will be provided by the title producer or its owners or employees.~~

~~_____ (b) Subsection (21)(a) does not apply to transactions involving seller financing.]~~

~~[(22)](15)(a) Engaging in the following advertising activity:~~

- ~~(i) paying for any advertising on behalf of a client;~~
- ~~(ii) advertising jointly with a client [on signs for subdivision or condominium projects or for the sale of a lot or lots in a subdivision or units in a condominium project];~~

~~(iii) placing an advertisement in a publication, including an internet web page and its links, that is hosted, published, produced for, or distributed by or on behalf of a client;~~

~~(iv) placing an advertisement that fails to comply with Section 31A-23a-402 and Rule R590-130;~~

~~(v) placing an advertisement that[;~~

~~_____ (A) is not purely self promotional; or~~

~~_____ (B)] is in an official trade association publication that does not offer [any] each title producer an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged;~~

~~(vi) advertising with free or paid social media services that are not open and available to the general public;~~

~~or~~

~~(vii) paying a fee to share, like, respond to, comment on, or increase the visibility, ranking, or distribution of any social media involving a client or a client's social media page.~~

~~(b) Nothing in Subsection [(22)](15)(a) prohibits the following:~~

~~(i) advertising independently that the title producer has provided title insurance for a particular subdivision or condominium project, but the title producer may not indicate that all future title insurance will be written by that title producer; or~~

(ii)(A) writing or posting on social media services about an event that directly involves the title producer and a client; and

(B) referencing or linking to the event on the client's social media page or the client company's social media page.

~~[(23) Using interests in other business entities, including I.R.C. Section 1031 qualified intermediaries and escrow companies to enter into any agreement, arrangement, or understanding, or to pursue any course of conduct designed to avoid the provisions of this rule.]~~

(16) Using an interest in another business entity to avoid the provisions of Title 31A, Insurance Code, or any applicable rule.

~~[(24)](17) For self-promotional open houses:~~

(a) holding more than two self-promotional open houses per calendar year for each owned or occupied facility, including branch offices; or

(b) holding a self-promotional open house at a location other than a registered office of the title producer.

~~[(b) spending more than \$15 per guest per self-promotional open house;~~

~~[(c) making guest expenditures on items in the form of a gift, gift certificate, or coupon; or~~

~~[(d) holding a self-promotional open house on a client's premises.]~~

~~[(25)](18) Making a donation to a charitable organization [created, controlled,]controlled or managed by a client.~~

~~[(26) Making a charitable donation that:~~

~~[(a) is paid in cash;~~

~~[(b) is paid by negotiable instrument to a payee other than the charitable organization;~~

~~[(c) is distributed to anyone other than the charitable organization; or~~

~~[(d) provides a benefit to a client.~~

~~[(27) Distributing outside the regular course of business to clients, consumers, and members of the general public, self-promotional items that:~~

~~[(a) have a value of more than \$10, including taxes, setup fees, and shipping;~~

~~[(b) are edible;~~

~~[(c) are personalized in the donee's name; or~~

~~[(d) are given to clients or trade associations for redistribution.]~~

(19)(a) Distributing to a client, consumer, or member of the general public a self-promotional item that:

(i) has a cost of more than \$25;

(ii) is edible;

(iii) does not contain a permanent marking identifying the title producer; or

(iv) is personalized in the donee's name.

(b) A sticker is not considered a permanent marking under Subsection (19)(a).

~~[(28) Making expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising if:]~~

(20) Making an expenditure for a business meal or business activity on behalf of any person, whether a client or not, as a method of advertising if:

(a) the person representing the title producer is not present during the business meal or business activity;

(b) a substantial title insurance business discussion does not occur directly before, during, or after the business meal or business activity;

(c) the total cost of the business meal, the business activity, or both exceeds [~~\$50~~]\$100 per person, per day;

(d) more than three individuals from an office of a client are provided a business meal or business activity in a single day by an individual title producer; or

(e) the entire business meal or business activity takes place on a client's premises.

~~[(29) Conducting a continuing education program that:~~

~~_____ (a) is not approved by the appropriate regulatory agency;~~

~~_____ (b) addresses matters other than title insurance, escrow, or related subjects;~~

~~_____ (c) is less than one hour in duration;~~

~~_____ (d) involves expenditure of more than \$15 per person including the cost of meals and refreshments; or~~

~~_____ (e) is conducted at more than one individual, physical office location of a client per calendar quarter.]~~

~~_____ (21) Conducting education that:~~

~~_____ (a) does not address title insurance, escrow, or a related subject;~~

~~_____ (b) involves expenditure of more than \$20 per anticipated person including the cost of meals and refreshments;~~

~~_____ (c) involves expenditure of more than \$500 for a facility and instructor; or~~

~~_____ (d) is conducted at an individual, physical office location of a client more than once per calendar quarter.~~

~~[(30)](22) Acknowledging a wedding, a birth[,] or adoption of a child, or a funeral of a client or a member of the client's immediate family with flowers or gifts exceeding [\$75]\$150.~~

R592-6-5. [Permitted Methods of Competition.

~~_____ The following are permitted methods of competition. In the event of a conflict between Sections R592-6-4 and R592-6-5, Section R592-6-5 is controlling.~~

~~_____ (1) A title producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.~~

~~_____ (2) A title producer may provide clients access to water, beverages, and edible treats at the title producer's premises.~~

~~_____ (3) A title producer may provide to a client the documents used to produce a title commitment and may provide access to them through any means.~~

R592-6-6. [Severability.

If any provision of this rule, Rule R592-6, 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.

R592. Insurance, Title and Escrow Commission.

R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.

R592-6-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Subsection 31A-2-404(2).

R592-6-2. Purpose and Scope.

(1) The purpose of this rule is to identify practices that constitute unfair methods of competition because the practices create unfair inducements for the placement of title insurance business.

(2) This rule applies to any person identified in Subsection 31A-23a-402(2)(a).

R592-6-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

(1)(a) "Business activities" include sporting events, sporting activities, musical events, and art events.

(b) "Business activities" do not include awards banquets, recognition events, or similar activities sponsored by or for clients, or commercial travel.

(2)(a) "Business meals" include breakfast, brunch, lunch, dinner, cocktails, and tips.

(b) "Business meals" do not include awards banquets, recognition events, or similar activities sponsored by or for clients.

(3)(a) "Client" means any person who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession, or occupation of:

(i) buying or selling interests in real property; or

(ii) making loans secured by interests in real property.

(b) "Client" may include real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies, and their employees, agents, representatives, and solicitors.

(c) "Client" does not include a trade association, for the purposes of this rule.

(4) "Official trade association publication" means:

(a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or

(b) an annual, semiannual, quarterly, or monthly publication containing information and topical material for the benefit of the members of the association.

(5) "Title insurance business" means the business of title insurance and the conducting of escrow.

(6) "Title producer" means a title insurer, agency title insurance producer, or individual title insurance producer.

(7) "Trade association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

R592-6-4. Prohibited Unfair Methods of Competition.

A person identified in Section R592-6-2 who provides or offers to provide, directly or indirectly, any of the following benefits to any client has violated Section 31A-23a-402 and has engaged in an unfair method of competition.

(1) Waiving any charge, premium, or rate for insurance or services otherwise due and payable.

(2) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction without receiving fair market payment for the services provided.

(3) Paying for, furnishing, or waiving all or any part of the rental or lease charge for space that is occupied by a client.

(4) Renting or leasing space from a client at a rate that is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by the client.

(5) Furnishing any part of a title producer's facilities, including conference rooms or meeting rooms, to a client or its trade association, for anything other than providing escrow or title services, or related meetings, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(6) Sharing office space with a client when the client or title producer does not have:

(a) separate, distinct signage;

(b) separate, distinct public access; and

(c) the ability to lock and secure the title producer's office space from the client's office space.

(7) Furnishing all or any part of the time or productive effort of any employee of the title producer, including a secretary, clerk, messenger, or escrow officer, to any client when such time or productive effort is not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction.

(8) Paying for all or any part of the income of a client or an employee of a client for a referral of business.

(9) Paying, or offering to pay, either directly or indirectly, salary, commissions, or any other consideration to any employee who at the same time holds an active license as a real estate agent or real estate broker, or as a mortgage lender or mortgage company subject to Section 31A-2-405 and Rule R592-5.

(10)(a) Payment or prepayment of the following:

(i) fees or charges of a professional, including an appraiser, surveyor, engineer, or attorney, whose services are required by any party or client to structure or complete a particular transaction; or

(ii) fees or charges of a client or party to the transaction, for example, subordination, loan, or HOA payoff request fees, that are required by any party or client to structure or complete a particular transaction.

(b) Subsection (10)(a) does not prohibit pre-payment of overnight mail and delivery fees.

(11)(a) Except as provided in Subsection (11)(b), sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food, or otherwise providing anything of value for an activity of a client including:

(i) an open house at a home or property for sale;

(ii) a meeting;

(iii) a breakfast, luncheon, or dinner;

(iv) a convention;

(v) an installation ceremony;

(vi) a celebration;

(vii) an outing;

(viii) a cocktail party;

(ix) a hospitality room function;

(x) an open house celebration

(xi) a dance;

(xii) a sporting event of any kind, including a fishing trip, gambling trip, hunting trip or outing, or golf or ski tournament;

(xiii) an artistic performance; or

(xiv) an outing in a recreation or entertainment area.

(b) A title producer may attend an activity of a client if:

(i) there is no additional cost to the title producer, other than the title producer's own entry fee, registration fee, and meals; and

(ii) the fees in subsection (11)(b)(i) are not greater than those charged to a client or other person attending the function.

(12)(a) Providing a gift or anything of value to a client in connection with a social event, such as a birthday or job promotion.

(b) A letter or card in these instances is not a thing of value.

(13) Sponsoring a trade association event at a cost that is greater than the sponsorships offered to members of the association, affiliates, vendors, or other participants of the event.

(14) Furnishing or providing the following, even for a cost:

(a) building plans;

(b) construction critical path timelines;

(c) "For Sale by Owner" lists;

(d) surveys;

(e) appraisals;

(f) credit reports;

(g) mortgage leads for loans;

(h) rental or apartment lists; or

(i) printed labels.

(15)(a) Engaging in the following advertising activity:

(i) paying for any advertising on behalf of a client;

(ii) advertising jointly with a client;

(iii) placing an advertisement in a publication, including an internet web page and its links, that is hosted, published, produced for, or distributed by or on behalf of a client;

(iv) placing an advertisement that fails to comply with Section 31A-23a-402 and Rule R590-130;

(v) placing an advertisement that is in an official trade association publication that does not offer each title producer an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged;

(vi) advertising with free or paid social media services that are not open and available to the general public; or

(vii) paying a fee to share, like, respond to, comment on, or increase the visibility, ranking, or distribution of any social media involving a client or a client's social media page.

(b) Nothing in Subsection (15)(a) prohibits the following:

(i) advertising independently that the title producer has provided title insurance for a particular subdivision or condominium project, but the title producer may not indicate that all future title insurance will be written by that title producer; or

(ii)(A) writing or posting on social media services about an event that directly involves the title producer and a client; and

(B) referencing or linking to the event on the client's social media page or the client company's social media page.

(16) Using an interest in another business entity to avoid the provisions of Title 31A, Insurance Code, or any applicable rule.

(17) For self-promotional open houses:

(a) holding more than two self-promotional open houses per calendar year for each owned or occupied facility, including branch offices; or

- (b) holding a self-promotional open house at a location other than a registered office of the title producer.
- (18) Making a donation to a charitable organization controlled or managed by a client.
- (19)(a) Distributing to a client, consumer, or member of the general public a self-promotional item that:
 - (i) has a cost of more than \$25;
 - (ii) is edible;
 - (iii) does not contain a permanent marking identifying the title producer; or
 - (iv) is personalized in the donee's name.
- (b) A sticker is not considered a permanent marking under Subsection (19)(a).
- (20) Making an expenditure for a business meal or business activity on behalf of any person, whether a client or not, as a method of advertising if:
 - (a) the person representing the title producer is not present during the business meal or business activity;
 - (b) a substantial title insurance business discussion does not occur directly before, during, or after the business meal or business activity;
 - (c) the total cost of the business meal, the business activity, or both exceeds \$100 per person, per day;
 - (d) more than three individuals from an office of a client are provided a business meal or business activity in a single day by an individual title producer; or
 - (e) the entire business meal or business activity takes place on a client's premises.
- (21) Conducting education that:
 - (a) does not address title insurance, escrow, or a related subject;
 - (b) involves expenditure of more than \$20 per anticipated person including the cost of meals and refreshments;
 - (c) involves expenditure of more than \$500 for a facility and instructor; or
 - (d) is conducted at an individual, physical office location of a client more than once per calendar quarter.
- (22) Acknowledging a wedding, a birth or adoption of a child, or a funeral of a client or a member of the client's immediate family with flowers or gifts exceeding \$150.

R592-6-5. Severability.

If any provision of this rule, Rule R592-6, 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 insurance

Date of Enactment or Last Substantive Amendment: August 23, 2021

Notice of Continuation: June 10, 2019

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

Effective 5/12/2015

31A-23a-204 Special requirements for title insurance producers and agencies.

An individual title insurance producer or agency title insurance producer shall be licensed in accordance with this chapter, with the additional requirements listed in this section.

- (1)
 - (a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately preceding the date on which the agency title insurance producer applies for a license with both:
 - (i) a title examination line of authority; and
 - (ii) an escrow line of authority.
 - (b) An agency title insurance producer subject to Subsection (1)(a) may comply with Subsection (1)(a) by having the agency title insurance producer owned or managed by:
 - (i) one or more individuals who are licensed with the title examination line of authority for the time period provided in Subsection (1)(a); and
 - (ii) one or more individuals who are licensed with the escrow line of authority for the time period provided in Subsection (1)(a).
 - (c) A person licensed as an agency title insurance producer shall at all times during the term of licensure be owned or managed by at least one individual who is licensed for at least three years within the preceding five-year period with both:
 - (i) a title examination line of authority; and
 - (ii) an escrow line of authority.
 - (d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt an attorney with real estate experience from the experience requirements in Subsection (1)(a).
 - (e) An individual who satisfies the requirements of this Subsection (1) is known as a "qualifying licensee." At any given time, an individual may be a qualifying licensee for not more than two agency title insurance producers.
- (2)
 - (a) An individual title insurance producer or agency title insurance producer appointed by an insurer shall maintain:
 - (i) a fidelity bond;
 - (ii) a professional liability insurance policy; or
 - (iii) a financial protection:
 - (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and
 - (B) that the commissioner considers adequate.
 - (b) The bond, insurance, or financial protection required by this Subsection (2):
 - (i) shall be supplied under a contract approved by the commissioner to provide protection against the improper performance of any service in conjunction with the issuance of a contract or policy of title insurance; and
 - (ii) be in a face amount no less than \$250,000.
 - (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt individual title insurance producer or agency title insurance producers from the requirements of this Subsection (2) upon a finding that, and only so long as, the required policy or bond is generally unavailable at reasonable rates.
- (3) An individual title insurance producer or agency title insurance producer appointed by an insurer may maintain a reserve fund to the extent money was deposited before July 1, 2008, and not withdrawn to the income of the individual title insurance producer or agency title insurance producer.

- (4) An examination for licensure shall include questions regarding the examination of title to real property.
- (5) An individual title insurance producer may not perform the functions of escrow unless the individual title insurance producer has been examined on the fiduciary duties and procedures involved in those functions.
- (6) The Title and Escrow Commission may adopt rules, establishing an examination for a license that will satisfy this section, subject to Section 31A-2-404, and after consulting with the commissioner's test administrator.
- (7) A license may be issued to an individual title insurance producer or agency title insurance producer who has qualified:
 - (a) to perform only examinations of title as specified in Subsection (4);
 - (b) to handle only escrow arrangements as specified in Subsection (5); or
 - (c) to act as a title marketing representative.
- (8)
 - (a) A person licensed to practice law in Utah is exempt from the requirements of Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.
 - (b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.
- (9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or not, shall maintain a trust account separate from a law firm trust account for all title and real estate escrow transactions.

Amended by Chapter 330, 2015 General Session