



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: **June 12, 2023**

Time: **9:00 AM**

Place: **In Person**

Taylorsville SOB
4315 S. 2700 W.
Big Cottonwood Room
Taylorsville, UT 84129

Virtual

Google Meet
meet.google.com/kzq-mggh-crc
347-338-1459 Phone
908 544 015# Password

ATTENDEES

TITLE & ESCROW COMMISSION

Chair, Kim Holbrook (*Insurer, Davis County*) Darla Milovich (*Agency, Salt Lake County*)
Vice Chair, Chase Phillips (*Agency, Weber County*) VACANT (*Agency*)
Jeff Mathews (*Public Member, Morgan County*)

DEPARTMENT STAFF

Jon Pike, *Insurance Commissioner* Reed Stringham, *Deputy Comm.* Tracy Klausmeier, *P&C Dir.*
Randy Overstreet, *Licensing Dir.* Patrick Lee, *Finance Dir.* Adam Martin, *MC Examiner*
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
- **Update on 2023 Goals**
 - ULTA report / Kim
- **New Business**
 - Reporting terminations of designations / Reed
 - Repeal of R592-15 / Reed
 - Five-Year Review of R592-10 / Steve
 - R592-6 / Kim
 - Addition of capital requirements to 31A-23a-204 / Kim
- **Old Business**
- **Other Business**
 - TEC/REC meeting / Kim
- **Hot Topics**
 - Seller impersonation / Kim
 - The value of a CPL / Kim

Executive Session (None)

- **Adjourn**
- **Next Meeting: July 10, 2023** — Flaming Gorge Room, Taylorsville State Office Building

2023 Meeting Schedule

Jan 9 Canceled	Feb 13 Big Cottonwood	Mar 13 Big Cottonwood	Apr 10* Canceled	May 8 Big Cottonwood	Jun 12 Big Cottonwood
Jul 10 Flaming Gorge	Aug 21 Flaming Gorge	Sep 18 Flaming Gorge	Oct 16* Flaming Gorge	Nov 13 TBD	Dec 11 TBD

*Proposed TEC/REC meeting immediately following

2023 Goals

1. Continue making sure testing is 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)

**Title Agency Licensing
May 2023**

New licenses

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

Agency ID	Name	Orig. Issue Date	Expire Date	LOA
16784	ORANGE TITLE INSURANCE AGENCY	2007-06-18	2024-11-30	TE
16784	ORANGE TITLE INSURANCE AGENCY	2007-06-18	2024-11-30	TS
166340	PIONEER TITLE INSURANCE AGENCY, LC	2011-05-16	2025-05-31	TE
166340	PIONEER TITLE INSURANCE AGENCY, LC	2011-05-16	2025-05-31	TMR
166340	PIONEER TITLE INSURANCE AGENCY, LC	2011-05-16	2025-05-31	TS
185058	RAMPART TITLE INSURANCE AGENCY LLC	2017-05-15	2025-05-31	TE
185058	RAMPART TITLE INSURANCE AGENCY LLC	2017-05-15	2025-05-31	TMR
185058	RAMPART TITLE INSURANCE AGENCY LLC	2017-05-15	2025-05-31	TS
197626	SECURE TITLE INSURANCE AGENCY	2021-05-18	2025-05-31	TE
197626	SECURE TITLE INSURANCE AGENCY	2021-05-18	2025-05-31	TS

Lapsed Licenses

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

Agency ID (none)	Name	Orig. Issue Date	Expire Date	Reinstated	LOA
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**Title Agent Licensing
May 2023**

New Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
2086681	BELNAP, BRIDGETTE	2023-05-24	2025-09-30	TE
2085235	CHILDS, JOSIE	2023-05-12	2025-12-31	TE
2084699	GIARDINA, BETH	2023-05-02	2026-04-30	TS
2080319	JOLLEY, JASON	2023-05-24	2025-05-31	TMR
2080319	JOLLEY, JASON	2023-05-24	2025-05-31	TS
2080319	JOLLEY, JASON	2023-05-24	2025-05-31	TE
2043813	MADISON, GORDON	2023-06-01	2026-01-31	TS
2084717	MAIR, MAE	2023-05-09	2025-05-31	TS
2084717	MAIR, MAE	2023-05-08	2025-05-31	TE
2087544	RETTOF, ANNE	2023-05-30	2026-02-28	TE
1926122	SCHEID, JARRAN	2023-05-17	2025-06-30	TE
2084265	WELCH, KASSIE	2023-05-24	2025-10-31	TS

Renewed Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
1759697	AUGAT, AARON	2018-07-03	2025-05-31	TE
85865	BARRETT, CINDY	2003-01-17	2025-05-31	TE
40005	BERTONE, KENNA	1993-04-05	2025-05-31	TE
1695878	BEZZANT, JENNIFER	2017-02-16	2025-05-31	TE
39048	BLACKBURN, MINDY	1999-11-18	2025-05-31	TE
1890417	BLACKSHER, JACOBY	2020-09-10	2025-05-31	TE
1934078	BREMER, FRANCISCA	2021-04-20	2025-05-31	TE
1602379	BUOY, EMMALEE	2015-04-14	2025-05-31	TE
1891829	BUTLER, ANDREA	2020-11-04	2025-05-31	TE
1788421	Bryson, Jennifer	2018-10-12	2025-05-31	TMR
1669280	CANNON, ALEC	2016-07-20	2025-05-31	TE
1669280	CANNON, ALEC	2016-07-28	2025-05-31	TS
1447641	CARTWRIGHT, ANDREW	2011-01-11	2025-05-31	TMR
41468	CHATWIN, SCOTT	1999-06-21	2025-05-31	TE
41468	CHATWIN, SCOTT	1996-11-05	2025-05-31	TS
1794547	CHRISTIANSEN, SHALANE	2018-11-16	2025-05-31	TE
1923104	CLARK, JENNIFER	2021-01-08	2025-05-31	TS
42441	CLARK, MARCI	1999-04-06	2025-05-31	TE
42441	CLARK, MARCI	2000-10-02	2025-05-31	TS
1947080	DAY, STACEY	2021-04-30	2025-05-31	TS
44645	ELLIOTT, ROBERT	1986-07-23	2025-05-31	TE
44645	ELLIOTT, ROBERT	1986-07-23	2025-05-31	TS
113918	EVANS, GINGER	2019-05-03	2025-05-31	TS
113918	EVANS, GINGER	2005-05-12	2025-05-31	TE
34666	FOWLER, JEFFERY	2005-05-11	2025-05-31	TE
34666	FOWLER, JEFFERY	1996-08-28	2025-05-31	TS
37950	GREEN, SCOTT	1995-03-29	2025-05-31	TS
1893345	HARPER, TAILOR	2020-08-28	2025-05-31	TS
32525	HENDRY, RICK	1995-03-16	2025-05-31	TE
39900	HOLMSTEAD, VICKIE	1990-06-21	2025-05-31	TE
132014	HOUSEAL, BRUCE	2006-08-02	2025-05-31	TS

Renewed Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
1490695	HOWLETT, LUISA	2021-09-15	2025-05-31	TE
1490695	HOWLETT, LUISA	2021-09-15	2025-05-31	TS
1490695	HOWLETT, LUISA	2021-09-15	2025-05-31	TMR
37568	HUNSAKER, DEON	1990-07-11	2025-05-31	TS
37568	HUNSAKER, DEON	1990-07-11	2025-05-31	TE
82124	Hatch, Krista	2006-10-18	2025-05-31	TE
82124	Hatch, Krista	2002-10-07	2025-05-31	TS
1587084	JACKSON, BLAIR	2015-05-21	2025-05-31	TS
1587084	JACKSON, BLAIR	2015-05-21	2025-05-31	TE
111505	JONES, CHRISTOPHER	2005-03-10	2025-05-31	TE
111505	JONES, CHRISTOPHER	2005-04-08	2025-05-31	TS
1685505	JORGENSEN, KRISTEN	2016-12-19	2025-05-31	TE
26653	LISH, JOHN	2004-06-07	2025-05-31	TE
26653	LISH, JOHN	1998-10-14	2025-05-31	TS
87989	LOMAX, MICHAEL	2003-03-21	2025-05-31	TS
32267	LOPEZ, ROBERT	2000-06-19	2025-05-31	TMR
32267	LOPEZ, ROBERT	2019-01-03	2025-05-31	TE
32267	LOPEZ, ROBERT	2019-01-03	2025-05-31	TS
45878	MC MILLEN, KENT	1988-04-27	2025-05-31	TS
45878	MC MILLEN, KENT	1988-04-27	2025-05-31	TE
90193	MCCANN, COURTNEY	2003-05-19	2025-05-31	TE
1798150	MYERS, KATHLEEN	2018-12-06	2025-05-31	TS
102857	Minic, Tracy	2004-06-15	2025-05-31	TE
1792661	NAVARRETE-HERRERA, ALICIA	2018-11-20	2025-05-31	TE
1520794	NEAL, DARWIN	2013-04-09	2025-05-31	TE
39136	NIELSON, MICHAEL	1991-01-09	2025-05-31	TS
1701543	OKABE, TAYLOR	2017-03-29	2025-05-31	TE
26435	OLIVER, JOLYNN	1995-03-24	2025-05-31	TE
1666717	PASKETT, DANIEL	2017-02-13	2025-05-31	TE
33539	PAY, PHILLIP	2015-07-09	2025-05-31	TE
1949216	PEARCE, MARYLYNN	2021-05-10	2025-05-31	TS
70420	PEHRSON, KRISTA	2004-11-29	2025-05-31	TS
70420	PEHRSON, KRISTA	2002-07-29	2025-05-31	TE
70420	PEHRSON, KRISTA	2001-10-17	2025-05-31	TMR
85778	PENMAN, DANIEL	2003-01-14	2025-05-31	TS
34881	PRESTWICH, CATHY	1992-12-30	2025-05-31	TE
1922038	REDDING, MADDI	2021-01-15	2025-05-31	TE
1708397	ROSENTHAL, BARBARA	2017-05-26	2025-05-31	TS
7181	SANDBERG, JOAN	1998-06-24	2025-05-31	TS
7181	SANDBERG, JOAN	1997-05-08	2025-05-31	TE
1791428	SAXTON, MELISSA	2019-01-25	2025-05-31	TE
41823	SCHOPPMANN, BRENT	2000-06-26	2025-05-31	TS
41823	SCHOPPMANN, BRENT	2014-08-04	2025-05-31	TE
41823	SCHOPPMANN, BRENT	2014-08-25	2025-05-31	TMR
37485	SPERRY, MARY	1987-02-04	2025-05-31	TE
37485	SPERRY, MARY	1987-02-04	2025-05-31	TS
1408510	STEPHENSON, SCOTT	2021-03-18	2025-05-31	TMR
44146	STONE, MICHELLE	2000-07-05	2025-05-31	TE
33046	THOMAS, JAREN	1997-04-07	2025-05-31	TS
144655	THORNE, DALE	2007-04-27	2025-05-31	TE

Renewed Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	LOA
1523801	WAYNE, MONICA	2013-05-09	2025-05-31	TE
112015	WHEELER, DAWNRAE	2005-03-28	2025-05-31	TMR
43123	WHEELWRIGHT, LISA	1996-04-26	2025-05-31	TE
43123	WHEELWRIGHT, LISA	1995-04-21	2025-05-31	TS

Lapsed Licenses

Agent ID	Name	Orig. Issue Date	Expired Date	LOA
37068	BACK, DARRELL	1979-01-31	2023-04-30	TS
31294	CAMPBELL, MICHELLE	1993-08-25	2023-04-30	TE
1698576	EVERETT, DEBORAH	2017-02-27	2023-04-30	TS
42440	HAZEN, JAN	1998-11-23	2023-04-30	TE
1781448	HOUTZ, HUNTER	2018-09-07	2023-04-30	TMR
129469	JOHNSON, KYLE	2007-06-08	2023-04-30	TE
129469	JOHNSON, KYLE	2006-05-31	2023-04-30	TMR
1868378	LUCZAK, SPENCER	2020-09-24	2023-04-30	TMR
111354	MOUSER, DIANE	2005-03-14	2023-04-30	TMR
141272	OSBORNE, NATALIE	2007-02-13	2023-04-30	TE
1923082	PARKS, CINDY	2021-01-12	2023-04-30	TMR
41258	RICHARDS, KIMBERLI	1993-12-10	2023-04-30	TE
1664367	SMITHING, MARYSA	2016-08-08	2023-04-30	TMR
1778011	Skelton, Lila	2018-08-17	2023-04-30	TE
39858	THOMPSON, COLLEEN	1995-03-30	2023-04-30	TE
134165	WELCH, LYNNEA	2006-09-15	2023-04-30	TE
1695563	WEST, BROOKE	2017-02-27	2023-04-30	TS
122226	WILKINSON, ALYSON	2021-04-02	2023-04-30	TE

Reinstated Licenses

Agent ID	Name	Orig. Issue Date	Expire Date	Reinstated	LOA
103697	HYDE, VERNON	2009-01-20	2025-04-30	2023-05-17	TMR
85625	MENDENHALL, JENNIFER	2003-01-08	2025-04-30	2023-05-09	TMR
85625	MENDENHALL, JENNIFER	2005-11-01	2025-04-30	2023-05-09	TE

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Repeal

Title No. - Rule No. - Section No.

Rule or Section Number:

R592-15

Filing ID: Office Use Only

Agency Information

1. Department:	Insurance	
Agency:	Title and Escrow Commission	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R592-15. Schedule of Minimum Charges for Escrow Services
3. Purpose of the new rule or reason for the change:
The rule is being repealed because Section 31A-19a-209 was amended by HB 410 (2023 General Session) to remove the requirement to file a schedule of escrow charges with the department.
4. Summary of the new rule or change:
The filing repeals the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. Maintaining and posting online the list of escrow charges was performed by two department employees as part of the normal course of their duties. It took minimal time and effort to perform, and that time and effort will be reallocated to other duties.
B) Local governments:
There is no anticipated cost or savings to local governments. The rule did not apply to local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. Under the rule, a title insurance agency was required to report to the department any time they changed the price they charged to perform an escrow activity. The vast majority of title insurance agencies rarely changed this price and so rarely reported to the department. In cases where an agency did report an escrow rate change to the department, it was by means of an email. Any savings as a result of this repeal would be so minor as to be incalculable.
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. Under the rule, a title insurer was required to report to the department any time they changed the price they charged to perform an escrow activity. The vast majority of title insurers rarely changed this price and so rarely reported to the department. In cases where an insurer did report an escrow rate change to the department, it was by means of an email. Any savings as a result of this repeal would be so minor as to be incalculable.

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. Under the rule, an individual title insurance producer who was not an employee of a title insurer or designated by a title agency was required to report to the department any time they changed the price they charged to perform an escrow activity. The vast majority of individual title insurance producers rarely changed this price and so rarely reported to the department. In cases where an individual producer did report an escrow rate change to the department, it was by means of an email. Any savings as a result of this repeal would be so minor as to be incalculable.

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 rule is being repealed.

G) 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	FY2024	FY2025	FY2026
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
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
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
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. 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	Ex 2: Subsection 63G-3-403(3)	

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

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*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

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*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

Public Notice Information

8. 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: 07/31/2023

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

Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on: 08/07/2023

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. 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.

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	Click or tap to enter a date.
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~~**R592. Insurance, Title and Escrow Commission.**~~

~~**R592-15. 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.~~

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

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

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

~~**R592-15-3. Definitions.**~~

~~_____ 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) "Certification" means a statement that a filing complies with Utah laws and rules.~~

~~_____ (2) "Charge" means a dollar amount charged for a service rendered by a title licensee.~~

~~_____ (3) "Document preparation" means preparing or compiling documents in connection with an escrow service.~~

~~_____ (4) "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.~~

~~_____ (5) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow Services.~~

~~_____ (6) "Escrow service" means a service related to a settlement of a real estate transaction.~~

~~_____ (7) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.~~

~~_____ (8) "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.~~

~~_____ (9) "Filer" means a person who submits a filing.~~

~~_____ (10)(a) "Filing Objection Letter" means a letter issued by the commissioner when a review determines that the filing fails to comply with Utah laws and rules.~~

~~_____ (b) The Filing Objection Letter may require correction of non-compliant items and request clarification or additional information pertaining to the filing.~~

~~_____ (11) "Letter of Authorization" means a letter signed on behalf of a title licensee that gives an individual filing authority.~~

- _____ (12) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services rendered.
- _____ (13) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.
- _____ (14) "Other settlement service" means an additional service not specifically listed in the Schedule of Minimum Charges for Escrow Services.
- _____ (15) "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.
- _____ (16) "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) A filing shall be accurate, consistent, complete, and contain all required documents for the filing to be processed in a timely and efficient manner.

_____ (b) The commissioner may request additional information as necessary.

_____ (2)(a) A filing that does not comply with this rule is rejected and returned to the filer.

_____ (b) A rejected filing:

_____ (i) is not considered filed with the department;

_____ (ii) shall be submitted as a new filing; and

_____ (iii) will be charged a new filing fee.

_____ (3) Prior filings are not researched to determine the purpose of the filing.

_____ (4) 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) any time the department determines a review is necessary.

_____ (b) 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.

_____ (5) Filing corrections.

_____ (a) If the filing is in an open status, correction can be made at any time.

_____ (b) 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.

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

_____ (7) A filer must notify the department when withdrawing a previous filing.

R592-15-6. Filing Requirements.

_____ (1) 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 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 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) Each filing must be submitted as an electronic filing via:

_____ (a) email; or

_____ (b) SERFF.

_____ (5) A complete email filing consists of the following:

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

_____ (b) a complete Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer, containing a complete filing description in the following order:

_____ (i) Certification:

_____ (A) A filer shall certify that a filing is complete and complies with Utah laws and rules.

_____ (B) The filing shall include the following statement 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.

_____ (ii) Indicate if the filing is:

_____ (A) new;

_____ (B) replacing or modifying a previous submission, 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;~~
- ~~_____ (e) a Schedule of Minimum Charges for Escrow Services, completed as follows:~~
 - ~~_____ (i) each blank field 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 Schedule of Minimum Charges for Escrow Services may not be altered; and~~
 - ~~_____ (d) a Letter of Authorization.~~
 - ~~_____ (i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~
 - ~~_____ (ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~
 - ~~_____ (e) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~
- ~~_____ (6) A complete SERFF filing consists of the following:~~
 - ~~_____ (a) a complete description section on the general information tab, presented in the following order:~~
 - ~~_____ (i) Certification.~~
 - ~~_____ (A) A filer shall certify that a filing is complete and complies with Utah laws and rules.~~
 - ~~_____ (B) The filing shall include the following statement 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.~~
 - ~~_____ (ii) Indicate if the filing is:~~
 - ~~_____ (A) new;~~
 - ~~_____ (B) replacing or modifying a previous submission, 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:~~
 - ~~_____ (i) attach the filing to the rate and rule schedule tab;~~
 - ~~_____ (ii) each blank field 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~~
 - ~~_____ (iv) the Schedule of Minimum Charges for Escrow Services may not be altered; and~~
 - ~~_____ (c) a Letter of Authorization.~~
 - ~~_____ (i) When the filer is not a title licensee, a Letter of Authorization from the title licensee shall be included with the filing.~~
 - ~~_____ (ii) The title licensee is responsible for ensuring that the filing complies with Utah laws and rules.~~
 - ~~_____ (d) Under Subsection 31A-19a-203(1)(e)(i), a rate filing fee shall be received by the department within five days of the electronic submission or the filing will be rejected.~~

R592-15-7. Charges.

- ~~_____ (1) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~
- ~~_____ (2) Other settlement service charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.~~
- ~~_____ (3) Other settlement service charges shall be filed as a per hour charge.~~
- ~~_____ (4) Only document charges shown in the Schedule of Minimum Charges for Escrow Services shall be filed.~~
- ~~_____ (5) Other services not specifically listed on the Schedule of Minimum Charges for Escrow Services may be provided if a justifiable charge is filed.~~

R592-15-8. Correspondence and Status Checks.

- ~~_____ (1) To identify the original filing, the following information shall be provided:~~
 - ~~_____ (a) type of filing;~~
 - ~~_____ (b) date of filing; and~~
 - ~~_____ (c) submission method.~~
- ~~_____ (2) A filer may request the status of its filing 60 days after the filing date.~~

R592-15-9. Responses.

- ~~_____ (1) A response to a Filing Objection Letter shall include:~~
 - ~~_____ (a) a cover letter identifying the changes made; and~~
 - ~~_____ (b) revised documents with each change highlighted.~~
- ~~_____ (2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.~~
- ~~_____ (b) Use of the filing shall be discontinued 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 title licensee chooses to make the requested changes addressed in the original Filing Objection Letter.~~

R592-15-10. Severability.

~~_____ 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 Last Change: December 23, 2021

Notice of Continuation: March 30, 2021

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

State of Utah
Administrative Rule Analysis
Revised May 2023

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Title No. - Rule No.

Rule Number:	R592-10	Filing ID: Office Use Only
Effective Date:	Office Use Only	

Agency Information

1. Department:	Insurance	
Agency:	Title and Escrow Commission	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule catchline:
R592-10. Assessment for the Title Licensee Enforcement Restricted Account
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 31A-2-404(2)(d) requires the Title and Escrow Commission to determine, by rule, the assessment required by Section 31A-23a-415. Subsection 31A-23a-415(2)(d) was amended by HB 410 (2023 General Session) to remove a requirement to establish by rule the costs and expenses to be deposited into the Title Licensee Enforcement Restricted Account, and to instead require the Title and Escrow Commission to approve the prior year's costs and expenses during the first quarter of the fiscal year. The rule will be amended at a later date to reflect this change.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The department has received no written comments regarding this rule during the past five years.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule is necessary to determine the costs and expenses incurred by the department as it regulates the title insurance industry; these costs and expenses are covered by an assessment to the industry. This rule sets a method of calculation that is important for transparency purposes, as well as for fairness, consistency, and accuracy. The Title and Escrow Commission voted [INSERT VOTE TALLY] to [CONTINUE / NOT CONTINUE] this rule at its 07/10/2023 meeting.

Agency Authorization Information

To the agency: Information requested on this form is required by Section 63G-3-305. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*.

Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	Click or tap to enter a date.
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Reminder: Text changes cannot be made with this type of rule filing. To change any text, please file an amendment or a nonsubstantive change.

R592. Insurance, Title and Escrow Commission.

R592-10. Assessment for the Title Licensee Enforcement Restricted Account.

R592-10-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Subsections 31A-2-404(2)(d) and 31A-23a-415(2)(d).

R592-10-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) determine the assessment on a title insurer and an agency title insurance producer;

(b) establish the costs and expenses covered by the assessment;

(c) require a title insurer and an agency title insurance producer to report the mailing address and physical location of each office in each county where the title insurer or agency title insurance producer maintains an office;

(d) calculate the number of title insurer or agency title insurance producer offices; and

(e) determine the premium year used in calculating the assessment of title insurers.

(2) This rule applies to each title insurer and each agency title insurance producer.

R592-10-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-23a-415. Additional terms are defined as follows:

(1)(a) "Office" means each physical location of a title insurer or an agency title insurance producer in a county.

(b) "Office" includes any physical location that is open and available to the public.

R592-10-4. Costs and Expenses.

The assessment under Section 31A-23a-415 covers the cost of a Market Conduct Examiner I, as determined by the department's budget and approved by the legislature, including:

(1) salary and state paid benefits;

(2) travel expenses, including daily vehicle expenses;

(3) computer hardware and software expenses;

(4) e-commerce expenses;

(5) wireless communications expenses; and

(6) training expenses.

R592-10-5. Office Report.

(1) A title insurer and an agency title insurance producer shall submit a completed Office Report Form not later than 30 days after the date a change described in this subsection occurs in a county where the title insurer or agency title insurance producer maintains an office:

(a) the opening or closing of an office; or

(b) a change of address of an office.

(2) An Office Report Form shall be submitted electronically via email to licensing.uid@utah.gov.

(3) The department's Office Report Form is available on the department's website, <https://insurance.utah.gov>.

(a) An actual copy of the form may be used or may be adapted to a particular word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(4) All offices reported under Section R592-10-5 are used to calculate the assessment.

(5) An annual assessment calculation for a title insurer or an agency title insurance producer that uses an incorrect number of offices because the number of offices was incorrectly reported will not be recalculated.

R592-10-6. Premium Year for Title Insurer Assessment.

The title insurance assessment is calculated using direct premium written during the preceding calendar year and shall be taken from the insurer's annual statements for that year.

R592-10-7. Assessment Payment.

(1) An annual assessment shall be paid by the due date on the invoice.

(2) Payments shall be made in accordance with Rule R590-102, Insurance Department Fee Payment Rule.

R592-10-8. Severability.

If any provision of this rule, Rule R592-10, 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 Last Change: October 12, 2021

Notice of Continuation: July 10, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-415

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) "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)(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)(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)(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 real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies, and the employees, agents, representatives, solicitors, and groups or associations of any of the foregoing.

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

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

(9) "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 for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) 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.

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

(8) Renting or leasing space from any 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 client.

(9) 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.

(11) 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.

(12) Paying for all or any part of the salary of a client or an employee of any client.

(13) 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 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)(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)(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.

(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) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as a thing of value.

(18) 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)(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 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)(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.

(24) 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;

(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) Making a donation to a charitable organization created, 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.

(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:

(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 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; 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.

(30) Acknowledging a wedding, 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.

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.

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



May 15, 2023

Reed Stringham
Deputy Insurance Commissioner
Utah Insurance Department
Taylorsville State Office Building
4315 South 2700 West, Suite 2300
Taylorsville, Utah 84129
rmstringham@utah.gov

Kim Holbrook
Chair – Utah Title and Escrow Commission
Old Republic National Title Insurance Company
3900 Traverse Mountain Blvd., Suite 201
Lehi, Utah 84043
KHolbrook@OldRepublicTitle.com

Via Email Delivery

Dear Reed and Kim:

This letter is sent to you on behalf of the Utah Land Title Association Executive Board (the “ULTA Board”) for your consideration. The ULTA Board met on March 13, 2023. At that meeting, it was discussed that, considering the enactment of HB410, changes to R592-6 - Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business – are needed to delete references to escrow services and fees. The ULTA Board also discussed whether the ULTA Board should provide recommendations to you that changes be made to R592-6 that go beyond the technical changes related to escrow services and fees. The result of that discussion was the ULTA Board voted unanimously to consider and propose recommended changes to other R592-6 rules. Members of the ULTA Board were then asked to submit any proposed changes to R592-6 for consideration by the ULTA Board. At a meeting on April 10, 2023, the ULTA Board reviewed, discussed, and considered the changes proposed by ULTA Board members who submitted them. The ULTA Board then voted on the proposed changes. Those changes that received a vote of two-thirds of the ULTA Board members participating in the meeting were approved. Submitted to you with this letter is a redlined version of R592-6 that shows those proposed revisions to the rules. The ULTA Board respectfully requests that you consider revising R592-6 based on these recommendations. I have been asked to note that, although no recommended change was ultimately

adopted, there was a lengthy discussion and a close vote associated with R592-6-4(20) and its restrictions and limitations on providing real property information, through any means, that a title producer pays to produce, develop, or maintain.

The ULTA Board is confident that Kim is certainly capable of addressing any questions associated with these proposed changes to the rules. She was present at the meetings referenced above and has a sound understanding of the rules and associated issues. If, however, if you have any questions or need additional assistance related to the position of the ULTA Board as it pertains to these recommendations, please feel free to contact me or any other ULTA Board member.

Thank you very much for your consideration and assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael M. Smith". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael M. Smith
President, Utah Land Title Association
(385) 500-3181
mike.smith@trulytitle.com

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 pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission ("the 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.

R592-6-2. Purpose and Scope.

(1) This rule identifies 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 31A-23a-402(2)(a).

R592-6-3. Definitions.

This rule incorporates the definitions set forth in Sections 31A-1-301 and 31A-2-402, and adopts the following:

(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) (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) (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) (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; and

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

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

(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 Section 31A-19a-203 or 31A-19a-209.

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

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

(9) **"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 Subsection R592-6-2 who provides or offers to provide, directly or indirectly, any of the following benefits to any client has violated Sections 31A-23a-402 and 31A-23a-402.5 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 Section 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 for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) 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.

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

(8) Renting or leasing space from any 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 client.

(9) 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.

(11) 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) Paying for all or any part of the salary of a client or an employee of any client.

(13) 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 as a real estate agent or real estate broker, or as a mortgage lender or mortgage company subject to Section 31A-2-405 and Section R592-5.

(14) (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 (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 Subsection 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 all kinds, hunting trips or outings, golf or ski tournaments, artistic performances, and outings in recreation areas or entertainment areas.

(16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection 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) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as a thing of value.

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

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

(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) (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 Section 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 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(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.

(24) 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;

(b) spending more than \$2045 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 at a location other than a registered office of the title producer.~~

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

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

~~(i)~~ is paid in cash;

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

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

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

Nothing in Subsection 26(a) prohibits a title producer from making a donation to a charitable organization created, controlled, or managed by a client, so long as the charitable organization is registered as a 501(c)(3) public charity or private foundation.

(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 \$2540, 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.

(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:

(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 \$7550 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 \$~~2015~~ per person including the cost of meals and refreshments (~~excluding any cost for facilities or instructors~~); or
 - (e) is conducted at ~~more than one~~an individual, physical office location of a client ~~more than once~~per calendar quarter.
- (30) Acknowledging a wedding, 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.

R592-6-5. Permitted Methods of Competition.

The following are permitted methods of competition. In the event of a conflict between Subsections R592-6-4 and R592-6-5, Subsection 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.

KEY: title insurance Date of Enactment or Last Substantive Amendment: May 24, 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

SELLER IMPERSONATION FRAUD IN REAL ESTATE



FRAUDSTERS are impersonating property owners to illegally sell commercial or residential property. Sophisticated fraudsters are using the real property owner's Social Security and driver's license numbers in the transaction, as well as legitimate notary credentials, which may be applied without the notary's knowledge.



Fraudsters prefer to use email and text messages to communicate, allowing them to mask themselves and commit crime from anywhere.

Due to the types of property being targeted, it can take months or years for the actual property owner to discover the fraud. Property monitoring services offered by county recorder's offices are helpful, especially if the fraud is discovered prior to the transfer of money.

Where approved by state regulators, consumers can purchase the American Land Title Association (ALTA) Homeowner's Policy of Title Insurance for additional fraud protection.

WATCH FOR RED FLAGS

CONSIDER HEIGHTENED SCRUTINY OR HALT A TRANSACTION WHEN A PROPERTY

- Is vacant or non-owner occupied, such as investment property, vacation property, or rental property
- Has a different address than the owner's address or tax mailing address
- Has no outstanding mortgage or liens
- Is for sale or sold below market value

CONSIDER HEIGHTENED SCRUTINY OR HALT A TRANSACTION WHEN A SELLER

- Wants a quick sale, generally in less than three weeks, and may not negotiate fees
- Wants a cash buyer
- Is refusing to attend the signing and claims to be out of state or country
- Is difficult to reach via phone and only wants to communicate by text or email, or refuses to meet via video call
- Demands proceeds be wired
- Refuses or is unable to complete multifactor authentication or identity verification
- Wants to use their own notary



SELLER IMPERSONATION FRAUD IN REAL ESTATE



TAKE PRECAUTIONS

CONTACT SELLER USING INDEPENDENT SOURCES

- Contact the seller directly at an independently discovered and validated phone number
- Mail the seller at the address on tax records, property address, and grantee address (if different)
- Ask the real estate agent if they have personal or verified knowledge of the seller's identity

MANAGE THE NOTARIZATION

- Require the notarization be performed by a vetted and approved remote online notary, if authorized in your state
- If remote online notarization is not available, the title company should select the notary. Examples include arranging for the seller to go to an attorney's office, title agency, or bank that utilizes a credential scanner or multifactor authentication to execute documents

VERIFY THE SELLER'S IDENTITY

- Send the seller a link to go through identity verification using a third-party service provider (credential analysis, KBA, etc.)
- Run the seller's email and phone number through a verification program
- Ask conversational questions to ascertain seller's knowledge of property information not readily available in public records
- Conduct additional due diligence as needed

USE THE PUBLIC RECORD

- Compare the seller's signature to previously recorded documents
- Compare the sales price to the appraisal, historical sales price, or tax appraisal value



CONTROL THE DISBURSEMENT

- Use a wire verification service or confirm wire instructions match account details on seller's disbursement authorization form
- Require a copy of a voided check with a disbursement authorization form
- Require that a check be sent for seller proceeds rather than a wire

FILE FRAUD REPORTS

- IC3.gov
- Local law enforcement
- State law enforcement, including the state bureau of investigation and state attorney general
- Secretary of state for notary violations

FIGHT FRAUD WITH INDUSTRY PARTNERS

- Educate real estate professionals in your community, such as county recorders, real estate agents, real estate listing platforms, banks, and lenders
- Host educational events at the local or state level
- Alert your title insurance underwriter of fraud attempts