AMENDED DRAFT
8/227/22

R592. Insurance, Administration.
R592-18. Cost of Doing the Escrow Business.
R592-18-1. Authority.

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

R592-18-2. Purpose and Scope~~ and purpose~~.

(1) ~~This rule applies to title insurers and title insurance producers.~~

~~(2)~~ The purpose of this rule is to establish the standard for determining compliance with Section 31A-19a-209(3)(a)(ii).

(2) This rule applies to title insurers, agency title insurance producers, and individual title insurance producers.

R592-18-3. 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) "Residential transaction" means the sale or financing of:

(~~1~~a) a building or structure, or a portion of a building or structure, occupied as, designed as, or intended for occupancy as a one to four family residence; or

b~~(~~2) vacant land that is offered for sale for the construction or location of a building or structure, or a portion of a building or structure, described in Subsection (a~~1~~).

[~~(1) "Counties of the first and second classes" means counties of the first class and counties of the second class under Section 17-50-501.~~

~~(2) "Counties of the third, fourth, fifth and sixth classes" means counties of the third class, counties of the fourth class, counties of the fifth class and counties of the second class under Section 17-50-501.~~

~~(3)]"Residential transaction" means the sale or financing of:~~

~~(a) a building or structure, or a portion of a building or structure, occupied as, designed as, or intended for occupancy as a one to four family residence[for natural persons]; or~~

~~(b) vacant land that is offered for sale for the construction or location of a building or structure, or a portion of a building or structure, described in Subsection (1)(a).~~]

Formatted: Indent: First line: 0.5"

Formatted: Indent: First line: 0.5"

Formatted: Body Text, Add space between paragraphs of the same style

Formatted: Font: Not Bold

Formatted: Indent: First line: 0.5"

R592-18-4. Calculating the cost of doing the escrow business under Section 31A-19a-209(3)(a)(ii).

(1)(a) A title insurer, an agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer, shall file with the commissioner[~~, to be submitted with its annual report,~~] a certified statement of the average residential escrow fee charged by the filer for residential transactions closed in this state for the prior calendar year.

(b)(i) For the calendar year 2022, the statement referred to in Subsection ~~(1)~~(a) shall be filed with the commissioner no later than November 1, 2022.[~~Not later than November 1, 2022, a title insurer shall file with the commissioner a statement of the average residential escrow fee charged by the title insurer for residential transactions closed in this State for the prior calendar year.~~]

(ii) Beginning in 2023, the statement referred to Subsection ~~(1)~~(a) shall be filed with the annual report.[~~not later than April 30 of each year, a title insurer shall file with the commissioner a statement of the average residential escrow fee charged by the title insurer for residential transactions closed in this State for the prior calendar year.~~]

(2)(a) The commissioner shall establish an industry average residential escrow fee by calculating the average of the residential escrow fees submitted under Subsection (1).

(b)[~~(i) An [The] industry average residential escrow fee shall be calculated for counties of the first and second classes based on escrow fees submitted by title licensees whose principal place of business is in one of those counties[the buyer side and the seller side of a transaction].~~
~~(ii) An industry average residential escrow fee shall be calculated for counties of the third, fourth, fifth and sixth classes based on escrow fees submitted by title licensees whose principal place of business is in one of those counties.~~
~~(c)~~]The industry average residential escrow fee shall include the sum of the fees charged by a filer for conducting escrow services on any residential transaction.

(c~~d~~)(i) The industry average residential escrow fee shall [~~exclude any pass-through~~] include ~~, except for a recording fee,~~ any cost incurred incident to ~~the~~ escrow services or the issuance of ~~the~~ title insurance and separately charged to a party to the transaction[~~the consumer~~].

(ii) Recording fees may not be included in the average residential escrow fee.

(3) (a) On December 1, 2022, the commissioner shall issue a bulletin that notifies title insurers, ~~and~~agency title

Formatted: Indent: First line: 0.5"

Commented [PB1]: Should we define filer?

Formatted: Indent: First line: 0.5"

insurance producers, and individual title insurance producers of the industry average residential escrow fee that is based on the certified statements referred to in Subsection (1)(b)(i).[~~for:~~
~~(a) counties of the first and second classes; and~~
~~(b) counties of the third, fourth, fifth and sixth classes.~~]

(b) The average fee referred to in Subsection (3)(a) is~~shall be~~ effective on January 1, 2023

(4)(a) Beginning in 2023, on June 1 of each year, the commissioner shall issue a bulletin that notifies title insurers, ~~and~~agency title insurance producers, and individual title insurance producers of the industry average residential escrow fee that is based on the certified statements referred to in Subsection (1)(b)(ii).

(b) The average fee referred to in Subsection (4)(a) is~~shall be~~ effective on September 1 following the issuance of the bulletin.

[~~for:~~
~~(a) counties of the first and second classes; and~~
~~(b) counties of the third, fourth, fifth and sixth classes.~~]
[~~(5) The industry average residential escrow fee calculated under Subsection (2) shall take effect on September 1 following the issuance of the bulletin.~~]

(5) Under Subsection 31A-19a-209(3)(a)(ii), the ~~Title and Escrow C~~commission determines that the cost of doing the escrow business is not less than 50% of the industry average residential escrow fee as calculated under Subsection (2).

R592-18-5. Severability.

If any provision of this rule, R592-18, or its application to any person or situation is held to be invalid, such~~the~~ invalidity does not affect any other provision or application of this rule which~~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: new rule
Authorizing, and Implemented or Interpreted Law: 31A-2-404(2)(a), (4); 31A-19a-209(2)(a)(ii)

Formatted: Indent: First line: 0.5"

Formatted: Indent: First line: 0.5"

Formatted: Indent: First line: 0.5"