



Insurance Department

State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: October 17, 2011 **Time:** 9:00 AM **Place:** East Bldg, Copper Room

MEMBERS

(Attendees = x)

Commission Members

xChair, Dirk Keyes xJerry M. Houghton, Tooele Cnty
xCo Chair, Cortlund G. Ashton, Salt Lake Cnty Larry Turner Blake, Washington, Cnty
xKirk Donald Smith, Weber Cnty

Department Staff

xPerri Babalis, AG Counsel xBrett Barratt, Deputy Comm. xMark Kleinfeld, ALJ
xSuzette Green-Wright, MC Dir. xBrad Tibbitts, P & C Dir. xTammy Greening, Examiner
Adam Martin, Examiner xJilene Whitby, PIO Recorder

Public

Matt Sager Pete Stevens David Moore
Lincoln Scoffield James Seaman Blake Heiner
Clayton Hansen

MINUTES

General Session: (Open to the Public)

- **Welcome** / Dirk Keyes, Chair
Dirk began the meeting at 9:11 am by welcoming those in attendance.
- **Adopt Minutes of Previous Meeting**
Cort said that under Old Business and the bullet that begins with "Pete said...", in the fourth line it refers to "title foreclosure insurance." "Insurance" should be replaced with "report." Cort then made the **motion** to accept the minutes with the change. Jerry seconded it and the vote was unanimous.
- **Executive Session** – not needed (Closed to the Public)
- **Roberts Rules & Open Meetings** / Perri
 - To adjourn a meeting a motion must be made and seconded
 - Open meetings:
 - All meetings are open to public.
 - Since the Board is a part of the Executive Branch they are required to follow the Act.
 - Title Commission adopted a resolution that allows them to have electronic meeting. They have the same notification requirements as a regular meeting.
 - Agenda is to be posted 24 hours in advance of the meeting with as much information as possible.
 - Agenda is to be posted on Public Meetings website, on door of department and sent to a paper.
 - Meeting may be closed in order to discuss:
 - A person's character, professional competence or physical or mental ability;
 - Collective bargaining;
 - Imminent litigation;
 - Security devices;

- Criminal misconduct
 - Strategy session regarding water rights;
 - Strategy session regarding sale and lease of real property.
 - The Act does not require that any meeting be closed.
 - Under no circumstances are closed meetings required, even for above seven reasons. It takes a two thirds vote to close a meeting.
 - Minutes must be written and recorded. Written minutes are official and must be kept indefinitely. A recording is to be kept two years. Must include date, time, those present and absent and all matters voted on. Minutes of closed meetings are not public.
 - It is a Class B misdemeanor if these requirements are ignored.
 - A Conflict of Interest Statement needs to be signed by commission members. Perri will bring it to the next meeting.
 - Cort asked if chance or social meetings and e-mails would fall within the Meetings Act. Perri said they would not.
 - Perri will clarify if the Commission can receive information regarding criminal investigation of title licensees.
- **Reports**
 - **Concur with Licensee Report** / Tammy
Licensing reports are for August and September. Jerry **moved** to concur with both, Kirk seconded it and the vote was unanimous.
 - **Concur with Complaint & Enforcement Reports** / Suzette
Cort noted that the Open and Closed Consumer complaint numbers are much higher in March than in months past. After referring to the Open and Closed Complaint Summary Report Suzette said it should show one open and no closed complaints in March. Kirk made a **motion** to approve the report with the change, Jerry seconded it and the vote was unanimous.
 - **Discuss Possible Changes in Procedures** / Brett
Wanted to know if the information provided by the department was acceptable. No changes were suggested.
 - **Request for Attorney Exemption**
 - **Miles E. Lignell**
Mr. Lignell was not present. Commission reviewed information. Cort and Jerry thought it seemed substantial. Jerry made a **motion** to concur with the department's approval of the exemption, Kirk seconded it and the vote was unanimous.
 - **Tyler Hawkes**
Mr. Hawkes was not present. Clayton said he would speak for his experience and education. Jerry agreed with department's disapproval. Mr. Hawkes does not meet criteria for exemption. As a county recorder he sees more errors coming from attorney prepared documents. They think they will fix them later. Some of this is due to inexperience.
 - Clayton Hansen said that the code does not specify how long a person has to be a member of the bar. Rule provides broad list of items constituting experience, Including; mortgage and real estate. This individual worked in title agency and mortgage business and is member of the bar. He requested reconsideration.
 - Jerry said that Hawkes's part time work in high school normally meant taking documents to other offices. It would not involve preparing documents, settlement statements or searches. The loan experience in 2006 dealt with marketing, which is different from title and escrow. He only quoted fees. Experience is limited. Clayton noted that Hawkes's had received a mortgage license about three years ago.

- Cort reviewed the time-line: a mortgage license in 2007; started law school in 2007 and the Rudd Firm in 2008; recently received a title license.
- Kirk noted that the code says nothing about age or years of experience. He asked the department if age or years of experience affected their decision. Suzette said “yes.” Clayton said pre-law school experience should be included. Cort said he had more experience than others they have approved.
- Cort made a **motion** to approve the application and send it back to the department to concur. No one seconded it. Jerry made the **motion** to concur with the department’s disapproval, seconded by Kirk. No votes in favor of the motion. Neither motion approved. The application has been **tabled until next month.**
- **Administrative Proceedings Action**
 - **Pre-Hearing: Cornerstone Title Ins. Agency / Kari M. Holding**
Mark has scheduled a prehearing for Oct 25 at which time a hearing will be set. He asked if the Commission wanted to hear it. The issues involve irregularities in a closing and filling out a power of attorney improperly. Hearing will determine fine and action against licensees. He was not aware that the respondents had asked the Commission to hear their case. Jerry made a **motion** to allow the department to do the prehearing and if respondents want the Commission to hear their case they will decide then. If there is no request for them then Mark should hear it. Cort seconded the motion and the vote was unanimous
 - **Defaults or Orders:** None
- **Old Business**
 - **Discuss Definition of Real Estate Escrow Settlements & Real Estate Closings / Perri**
She and Suzette put together definitions. “Settlement” and “Closings” are used in 31A-1-301(57) .
 - Cort want to see definitions in UAR’s form. He will bring a copy next time. To put into the department’s clean-up bill language needs to be added before end of month. The Commission can approve by phone in an emergency meeting. Perri said she had 44 pages of where words are used in the code. One third do not apply to title. In 7-5 of the Real Estate code is a definition for these words. Escrow is defined in the Insurance code. Cort liked many elements of Real Estate’s definition. **Leave on agenda.** Brett encouraged Commission to act by end of month.
 - **Discuss Unlicensed Activity**
 - Cort helped draw up letter to Lt Governor’s office. Sent to Lt. Governor and Commission. Letter is a reminder that specific notary activities are not allowed. Dirk will send Jilene a copy for the record.
 - Cort asked if the six summary actions were unlicensed. Suzette said a couple of them were.
- **New Business**
 - **Letter Regarding Intent of New Law 31A-23a-406(5)(c) / Cort**
 - This is in regards to Good Funds law. He had a few proposed legislative changes. The changes in last year’s law created confusion regarding the handling of cashier’s checks. Kirk said the issue also applies to real estate business.
 - Cort made a **motion** that the **department prepare a bulletin describing the intent of the law,** Kirk seconded it and the vote was unanimous. Will be reviewed and approved by Commission.
 - **Discussion of Regulation of Title Insurance / Cort**
ULTA and Neal received email from member of the governor’s Optimization and Streamlining of Business Task Force. It raised the question if the department or Real Estate Division (RE) should regulate Title.

- Letter said RE conducts investigation then hands them off to Insurance Department to duplicate their investigation. This would only occur with fraud cases. Most investigations are marketing related. Few would overlap with RE. Title business is the business of insurance and should be handled by those that understand insurance. Escrow may be different. May want to split off from title?
 - Tammy said the department does not start over on RE investigations sent to the department and that the department does review escrow. Brett noted that Nevada has a RE license for just escrow and their insurance department has a licenses for title and escrow.
 - Shortly after the meeting it was discovered that Commissioner Gooch had already responded to this letter. The Commission was told they too could respond if desired.
 - **Keep on agenda for next month.**
- **Other Business**
 - **31A-23a-406 review of language**
Perri will forward proposed new language for this section to Commission members. **Put on next month's agenda.** Commission already approved the changes. She wants them to verify it is what they wanted.
 - **Boards & Commissions Survey from Governor's Office / Dirk**
Dirk asked for input after the meeting to complete the survey.
 - **Annual Report to Governor Re: Title / Suzette**
Suzette filed the annual title report to Business and Labor committee. She will make sure Title Commission members also receive a copy. It is a summary of 2010 business.
 - **Adjourn: Motion** by Cort seconded by Jerry unanimous. 10:45am.
 - **Next Meeting:** November 14, 2011, Copper Room

2011 Meetings
Nov. 14 Dec. 12