



# 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:** March 14, 2011      **Time:** 10am      **Place:** East Bldg, **Copper** Room

### MEMBERS

#### Commission Members

Chair Cortlund G. Ashton, Salt Lake Cnty      Canyon W. Anderson, Davis Cnty  
Co-Chair Garry M. Goodsell, Iron Cnty      Jerry M. Houghton, Tooele Cnty  
Dirk Keyes

#### Department Staff

Perri Babalis, *AG Counsel*      Suzette Green-Wright, *MC Dir.*      Mark Kleinfeld, *ALJ*  
Tammy Greening, *Examiner*      Jilene Whitby, *PIO Recorder*      Brad Tibbitts, *P&C Dir.*  
Adam Martin, *Examiner*

#### Public

James Seaman      Jack Marinello      David      Moore  
Lincoln Scoffield

### MINUTES

#### General Session: (Open to the Public)

- **Welcome and Introductions** / Cortlund Ashton, Chair  
**Garry excused Cort. He is conducting**
- **Adopt Minutes of February Meeting**  
**Canyon motion to approve, Jerry seconded, unanimous**
- **Executive Session** - Not needed (*Closed to the Public*)
- **General Session** - (*Open to the Public*)
- **Reports**
  - **Concur with Licensee Report**  
Canyon questioned the name of Maui Title. What kind of message does that send? **Motion** by Canyon to concur, seconded by Dirk, vote unanimous.
  - **Concur with Complaint & Enforcement Reports**  
Canyon said reports were easier to read. Canyon made a **motion** to concur, seconded by Jerry, vote unanimous.
  - **Request for Attorney Exemption:** None
- **Administrative Proceedings Action**
  - **Pre-Hearing:** Summit Escrow  
Mark Kleinfeld asked Commission if they want to hear this case. Summit has not requested they do it. Canyon made a **motion** that **Mark hear the case**, Dirk seconded it, vote unanimous.
  - **Stipulation & Order:** None
- **Old Business**
  - **Update on LSI / Suzette**  
LSI is in investigation. **Put on the next agenda** under Tammy's name.
  - **Legislation / Suzette**
    - **HB333, Unfair Inducement:** The reference to title has been taken out thanks to Curt Webb. Canyon expressed concern regarding change in the enrolled version starting on line 372 changing "are" to "is". **Canyon asked Perri to advise them if this change was neutral or not. Make this an agenda Item.**
    - A recorder bill and two real estate bills have passed.
    - HB260, Mechanics' Liens, passed. Allow everyone involved a clear and concise date of priority. First lien starts the clock.
  - **Discuss Written Comments & Comments from Hearing of R592-15, "Submission of a Schedule of Minimum Charges for Escrow Services"**

No written comments have been received. No one in hearing disagreed with rule or suggested changes. March 31, 2011 is end of comment period. During April meeting the Commission will decide if the rule is put into effect or additional changes are to be made.

- **File Rule R592-6 for Rulemaking by 3-15-11 & Set Hearing Date & Time for R592-6 & 14**  
Canyon wanted to make sure underwriters had right to determine insurability. Canyon made a **motion** to hear R592-6 at 8am and R592-14 at 9am on Monday, April 11, Dirk seconded it and the vote was unanimous.
- **Setting Search Standards / Jerry**  
Definition of "adequate search" is different state to state. Timeframes seems to be the most common way to define it. Plant laws also vary greatly. Who certifies a plant? Changes may need to be made to the statute. May need to define Plant. Statute does not require a plant. Some state timeframes go back 30-40 years. The code requires standards to be set. Current indexes should continue to be used. **Put this on Old Business** for next month. James will advise ULTA of this discussion.
- **Dual Licensing Discussion - Continued / Cort**  
**Put on April agenda** for Cort to discuss.
- **Appointment Process for Two New Members / Suzette**  
**Jilene will notify** the Commission if applications have been filed.
- **New Business**
  - **What is the Function of the Escrow that Requires the License / Canyon**
    - Section 31A-1-301 defines Escrow Agent. Section 31A-23-406 identifies when an escrow officer can perform escrow. An escrow officer must be designated by an agency to conduct a real estate closing pursuant to a written real estate agreement.
    - The question is, are mobile notaries performing escrow services? If so, they need to be licensed. Perri reported that the AG representative to the Lt Governor's office has no interest in this issue and asked Perri to take care of it. To control notaries that don't have an insurance license Perri suggested the department issue a Cease and Desist first to warn them, then if they persist, fine them. A member of the public said that if the notary is holding or controlling any document, he or she is acting as an escrow agent or producer. The notary does not need to explain the document to be in violation.
    - Perri said a letter from the department explaining this could go out to the title industry. It would be especially helpful for agencies that have a notary. All notaries working with or for a title agency must be designated by that agency. **Does an agency's fidelity bond cover a notary? Tammy will prepare and send the letter out.**
- **Other Business from Committee Members**
- **Adjourn:** Jerry made a **motion** to adjourn and Canyon seconded it.
- **Next Meeting:** April 11, 2011, Copper Room

#### 2011 Meetings

Jan. 10	Feb. 14	Mar. 14	Apr. 11	May 9	Jun. 13
Jul. 11	Aug. 8	Sep. 12	Oct. 11	Nov. 14	Dec. 12