



Insurance Department

State of Utah Title & Escrow Commission Meeting Meeting Information

State of Utah

GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor
TODD E. KISER
Commissioner

Date: September 16, 2019

Time: 9AM

Place: East Building, Copper Room

ATTENDEES

TITLE & ESCROW COMMISSION

xChair, Nancy Frandsen (*Insurer, Salt Lake County*) xJames Swan (*Insurer, Salt Lake County*)
xVice Chair, Alison McCoy (*Agency, Tooele County*) xChase Phillips (*Agency, Weber County*)
xRandy Smart (*Public Member, Salt Lake County*) xPerri Babalis, *AG Counsel - TEC*

DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner* xReed Stringham, *Deputy Comm.* xTracy Klausmeier, *P&C Dir.*
Randy Overstreet, *Licensing Dir.* Michael Covington, *CE Specialist* xAdam Martin, *MC Examiner*
xSteve Gooch, *PIO Recorder*

PUBLIC

Matt Olsen Kem Holbrook Carol Yamamoto
Colby Vogt Blake Heiner Kim Connelly Cruz
Ronnie Cruz Mark Webber Steve Strong
Bob Rice [PHONE] Matt Sager [PHONE] Matt Ryden [PHONE]

MINUTES — *Approved*

General Session: (Open to the Public)

- **Welcome** / Nancy Frandsen, Chair (9:01 AM)
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
 - **Motion by James to adopt minutes. Seconded by Alison. Motion passes 5-0.**
- **Concurrence Reports**
 - Licenses
 - On the second page, there appear to be 2 different sections for new licenses. Reed checked and it doesn't reflect a problem with the reporting.
 - Nancy notes that Jeff Jensen's license lapsed. He passed away July 1, and he was licensed for 42 years. He was the owner of Landmark Title.
 - **Motion by Chase to concur. Seconded by Randy. Motion passes 5-0.**
 - Annual report
 - Nancy asks if the 32 complaints figure was the total for the year. Reed says there were 32 complaints "received by the Commissioner", which is the statutory language. There are other matters that the UID was involved in, but the 32 are matters received from outside the UID.
 - Nancy notes that seven-eighths of them had no action. Reed says that's correct.
 - **Motion by Alison to concur. Seconded by James. Motion passes 5-0.**
- **Board Duties & Responsibilities** / Perri
- **Update on 2019 Goals**
 - ULTA report / James

- James has nothing to report. He suggests passing the baton to Nancy. Nancy would like to discuss passing it to another commission member once the new person joins the TEC.
 - REC report / Nancy
 - There are 568 open cases, of which 19 are with the AG's office. Their new real estate investigator is Shane McFarland. Their attorney, Liz Harris, was reassigned to the AG's office and their new attorney is Sterling Corbett.
- **New Business**
 - Increasing statutory cap on recoverable costs for title enforcement / Reed
 - Reed says there's a statute in the code that says costs and expenses the UID incurs when enforcing the law against title licensees are covered by the title assessment, but that can't be more than \$100,000. Typically, the costs and expenses have been under that amount except for the last year. It raised the possibility that we could go over again, and if we do it makes sense to raise the cap. The Legislature has appropriated \$130,800, which is the amount the UID is authorized to spend when enforcing the laws. We think increasing to \$135,000 would prevent having to go back repeatedly to the Legislature to fix the problem. Reed is asking the TEC to give its approval to move forward with amending the statute during the next session, with the assurance we'll try to keep costs as low as possible.
 - Nancy asks what the costs include. Reed says it's for investigating and enforcing the title insurance laws. The increase may be because we had 2 people working on it for a while, but we're back down to 1. He doesn't expect that it'll go over again, but it might be a good idea to increase it just in case.
 - Alison asks if, in light of the next discussion, it will look like the industry is causing trouble and needing more money. How will it be presented? Reed says he will present it the same way he presented it to the TEC. The UID's bill filing gives a summary of the change and the reason for it. He'll make it clear that this isn't a play for more money, it's so the UID doesn't have to return again and again for authorization.
 - Commissioner Kiser notes that the UID is doing some cross-training so market conduct people can also work on consumer complaints. If the demand is there, the UID may allocate some resources to other employees. We want flexibility to see if the costs are being used by title & escrow, we can adjust and move people. When Tanna was replaced, Adam took on more work.
 - Randy asks if it's a restricted account, does any overage come out of the UID budget? Commissioner Kiser says it comes out of our general account and we have to explain it to the Governor's Office of Management and Budget. This is a fix that will make it so we don't have to do that.
 - Alison asks if this will increase the amount of the assessment. Reed says no.
 - Chase asks if it's just to raise the cap, does that mean that, of all the money assessed to title agencies in the state, \$100,000 of the assessment can be used for this purpose and we want to use \$135,000? Reed says yes. Chase asks if there are excess funds, are those used for other UID purposes. So in low years, there was extra money for the UID's use that didn't get transferred over. Reed says that's his understanding.
 - Randy asks if the money goes back to the UID or back to the general fund if it isn't used. Commissioner Kiser doesn't know, but will get an answer from Patrick. Randy says if it carries over from year to year, there should be enough to take care of the difference.
 - Alison says she's not ready to take action without a better explanation and clarification.
 - Nancy asks if there's a deadline to get this done. Reed says if we address it next month, that would be great.
 - Nancy notes that Reed said some of the fees were absorbed, and she asks about the word "absorbed". Reed says the \$4,000 in extra charges had to be transferred to the UID's general fund, which is a no-no, but we had to do something to make everything balance. Nancy just wants to make sure that if we raise the cap, the money won't be used to absorb other UID operations. Reed

says it won't. It just makes it so if title goes over \$100,000 again, the UID doesn't have to do this accounting trick that we shouldn't have done but were forced to do.

- Randy asks how much comes in from the assessment. Reed doesn't know.
 - Chase says he believes the assessment goes to all title agencies and insurers in the state, and it's used to cover the costs of the employees in the UID, and if there are losses or claims by the public.
 - Tracy thinks the money in the account can only be used to regulate the title industry. We will get more clarification from Patrick Lee.
 - **Motion by Alison to table the issue until October. Seconded by James. Motion passes 5-0.**
- **Old Business**
 - Response to Administrative Rules Review Committee re: R592-6-5 / Nancy
 - Nancy can't think of anything Alison didn't cover in the letter. The plan is to send it to Chairman Anderegg and Chairman Roberts this week, then they would like the TEC to appear before the committee next week. We wanted them to have the letter ahead of time. James will be out of town, but Nancy will be happy to appear for the TEC.
 - The meeting is on September 25 at 10am.
 - **Motion by Randy to approve the letter and send it to the ARRC. Seconded by Chase. Motion passes 5-0.**
 - Proposed amendments to R592-11 / Reed
 - Reed has provided a document with some proposed changes and the reasoning behind them.
 - James agrees with Reed's reasoning on a legal basis, but he still thinks there's some value in self-reporting things like location and financials that might trigger an audit, although he admits it's not legally required. He doesn't have super strong feelings, but he sees value in them because it would be on the record for future audits if necessary. It makes people take stock when they have to sign a report each year.
 - Nancy agrees with James. She works in other states where title companies don't need brick and mortar or a resident title examiner. Those companies come into those states and take over the business of companies that are already there. It would be good for companies to write an address down to help the UID see if someone is designated to more companies than they're allowed to. She thinks it would be good for people to list a Utah address.
 - Reed says the comments have focused on the physical location. Should he just keep it all in there?
 - Randy asks Tracy if a company has to sign a verification, does that help with enforcement? Tracy says having them sign an affidavit that they're compliant would work. Some of these things could be asked for under a public records request, so it's better if we don't have it. We also don't have the skillset to go through financial reports. Nancy is fine without reporting the financials, but the location is important. Alison thinks the financials came in to make sure companies were solvent, but she doesn't think that's the state's job. James would be OK with leaving in the proof of financial protection, but removing the financial reports.
 - Nancy asks Adam if he got information previously from the report that would be a catalyst for an audit? How does he determine when an audit should be done? Adam says the only part he uses is the premium reported this year versus last year. He can get that information outside this report.
 - James thinks only 2(a) would come out, and the rest would stay in. Reed will make an updated version and will present it at the next meeting.
 - **Other Business**
 - Nancy would like the board to think about goals for 2020 and bring them to the next meeting.
 - **Hot Topics**

Executive Session (None)

- **Adjourn** (9:35 AM)
 - **Motion by James to adjourn. Seconded by Alison. Motion passes 5-0.**

- Next Meeting: **October 21**, 2019 — Copper Room

2019 Meeting Schedule in Copper Room

Jan 14	Feb 11	Mar 11	Apr 15	May 28	Jun 10 — Canceled
Jul 15	Aug 12	Sept 16	Oct 21	Nov 18	Dec 16

* bold dates denote quarterly required in-person meetings.