



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Insurance Department

JONATHAN T. PIKE
Insurance Commissioner

**Meeting of the Title & Escrow and
Real Estate Commissions**

Date: April 11, 2022

Time: 9:30 AM

Place: In Person

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

Virtual

Google Meet
meet.google.com/qfc-pbki-dmf
314-474-3202 Phone
431 055 000# Password

ATTENDEES

TITLE & ESCROW COMMISSION

Chair, Kim Holbrook (<i>Insurer, Davis County</i>)	Darla Milovich (<i>Agency, Salt Lake County</i>)
Vice Chair, Chase Phillips (<i>Agency, Weber County</i>)	Cal Robinson (<i>Agency, Iron County</i>)
Jeff Mathews (<i>Public Member, Morgan County</i>)	
Jon Pike, <i>Insurance Commissioner</i>	Reed Stringham, <i>Deputy Commissioner</i>
Tracy Klausmeier, <i>P&C Division Director</i>	Adam Martin, <i>Market Conduct Examiner</i>
Steve Gooch, <i>PIO Recorder</i>	

REAL ESTATE COMMISSION

Jim Bringhurst (<i>Chair</i>)	Rick Southwick (<i>Commissioner</i>)
Randy Smith (<i>Vice Chair</i>)	Andrea Wilson (<i>Commissioner</i>)
Marie McClelland (<i>Commissioner</i>)	
Jonathan Stewart, <i>Real Estate Division Director</i>	Maelynn Valentine, <i>Board Secretary</i>

AGENDA

General Session: (*Open to the Public*)

- **Welcome** / Kim Holbrook, Chair
- **Telephone Roll Call**
- **New Business**
 - Logistics of future meetings
 - Educating consumers on wire fraud
 - Increased awareness of affiliated business arrangements

Executive Session (None)

- **Adjourn**
- **Next Meeting:** **TBD**

2022 TEC Meeting Schedule

Jan 10	Feb 14	Mar 14	Apr 11	May 9	Jun 13
Jul 11	Aug 15	Sept 12	Oct 17	Nov 14	Dec 19

TEC 2021 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 wire fraud's effect on consumers and agencies
5. Increase awareness of affiliated business arrangements (ABA)



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Department of Commerce

Division of Real Estate

MARGARET W. BUSSE
Executive Director

JONATHAN C. STEWART
Real Estate Division Director

January 20, 2022

Dane Ishihara
Director
Office of Regulatory Relief
60 East South Temple, Suite 300
Salt Lake City, Utah 84111

Director Ishihara,

Please accept this as the Division of Real Estate's response to Homie's Regulatory Sandbox Application.

The Division of Real Estate has several concerns regarding admitting Homie to the Regulatory Sandbox.

Homie is seeking relief from Utah Code §31A-23a-1003(1)(b), effective May 14, 2019, which sets a requirement for an affiliated business arrangement between a person and a title entity: that a minimum of 30% of their title business come from non-affiliated sources. Affiliated business arrangements in this context are those in which a person who is in a position to refer business incident to or part of a real estate settlement service has either an affiliate relationship with or a direct or beneficial ownership interest.

Homie's application states that "[i]t's this 30% requirement that Homie Title's business comes from independent sources that jeopardizes Homie Title's viability." Nowhere in the report does Homie explain *how* this would jeopardize their viability. One can only presume the viability of Homie's venture into the title industry is threatened by having to compete in the open marketplace for title business. Homie also states that they are "asking the committee for relief from this rule to allow us to experiment with our model and provide savings and better service to our customers." According to annual reports filed with the Division of Real Estate, Homie has been affiliated since May 15, 2019, and therefore has already been "experimenting" for two and a half years. The affiliated title legislation anticipated time would be needed to hit the 30% non-affiliated threshold. When Homie filed

their annual report in 2020, 24% of their business was non-affiliated. When they filed their report in 2021, only 15% of their business was non-affiliated. Only two other affiliated title companies filed annual reports in both 2020 and 2021, and both of them increased their non-affiliated business from year one to year two: one from 34.26% to 43% and the other from 51% to 77%. Homie is the only affiliated title company that has decreased their non-affiliated business over that period.

By passing §31A-23a-1003 (“Section 1003”), the State removed the prohibition of referral business between affiliated entities. Prior to Section 1003, a title company was prohibited from generating *any* affiliated business revenue. Now, under Section 1003, a title company may generate *up to 70%* of its gross transaction revenue from an affiliated business. If anything, Homie has already benefitted from a less restrictive regulatory environment created by the very statute they wish to waive.

Innovation

It is doubtful that Homie’s offering of title insurance products meets the standard of “innovative product or service” required for admission to the Regulatory Sandbox. The only innovation that Homie references is the fact that they offer real estate, lending, and title services under one roof. Rather than representing true innovation, Homie appears to be seeking a competitive advantage over other businesses. Affiliated business arrangements are not new or innovative; rather, they have long been a part of the real estate industry. This business model has been limited for good reason: conflict of interest is inherent in removing competition from an already limited marketplace—one that essentially requires the participation of most real estate consumers.

Potential Consumer Harm

In their application, Homie was asked to identify risks that might exist for consumers who use or purchase the offering. Homie’s response was, “None that we could identify.” This is concerning. They have not acknowledged or addressed the obvious conflicts of interest that could potentially harm consumers. Even basic research about affiliated business in title insurance reveals inherent risks that must be considered.

Failure to Disclose Affiliated relationship

RESPA requires the disclosure of an ownership or financial interest between the provider of the settlement services and the person making the referral. Because Homie has a financial incentive to have its clients use its affiliated title company, there will always be the risk of non-disclosure. While non-disclosure can occur with or without a 30% requirement, when the majority of business comes from affiliated referrals, there is greater incentive not to disclose to make the business model viable. The average consumer would not be looking for the absence of a disclosure they were not even aware was required.

Higher Fees for Consumers

If a Homie customer receives real estate, mortgage, and title services from a single affiliated source, the customer is not likely to know or understand what a particular fee would or should cost from a competing title insurance company. Homie argues that keeping all three businesses in one affiliated company will save the customer money; however, one could argue just the opposite. Capturing a title customer who is either uninformed or believes that savings in one part of the transaction will offset excessive fees in other parts of the transaction could result in a consumer paying overall higher fees. If Homie's title fees are in fact lower, as they claim, one has to question why it is difficult for them to comply with the 30% non-affiliated requirement.

Homie offers a title insurance estimate on their website. For a \$500,000 sale, their estimate is \$2,464 for a title insurance policy. On a competitor's website, you can get quotes from three different title companies. For standard coverage on a \$500,000 sale, the options are \$2,240; \$2,156; and \$2,611. For enhanced coverage the options are \$2,464; \$2,372; and \$2,873.

Homie claims that their business model saves consumers money, but based on the above data, if a consumer were to shop around for their title insurance policy, they would pay less. With real estate, mortgage, and title all under one roof, consumers are less likely to shop around, potentially causing consumers to overpay unknowingly. Even if they adjust their title fees, due to the inherent conflicts,

Homie's affiliated business activities could potentially obfuscate the fees for their title work.

Thank you for considering the Division's concerns. We leave it to the discretion of the Advisory Committee to approve or deny Homie's access to the Regulatory Sandbox.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jonathan Stewart', with a long horizontal line extending to the right.

Jonathan Stewart
Director, Utah Division of Real Estate