



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Insurance Department

JONATHAN T. PIKE
Insurance Commissioner

Title & Escrow Subcommittee Meeting

(<https://insurance.utah.gov/licensee/title/tec>)

Date: August 25, 2021

Place: In Person

Virtual

Time: 9:00 AM

Taylorsville SOB
4315 S. 2700 W.
Bonneville Room
Taylorsville, UT 84129

Google Meet

ATTENDEES

TITLE & ESCROW SUBCOMMITTEE

xChair, Cal Robinson (<i>Title & Escrow Commission</i>)	xDarla Milovich (<i>Title & Escrow Commission</i>)
xChase Phillips (<i>Title & Escrow Commission</i>)	xAdam Martin (<i>Insurance Department</i>)
xBlake Heiner (<i>Industry</i>)	xMatt Sager (<i>Industry</i>)
xJustin Sutherland (<i>Industry</i>)	

DEPARTMENT STAFF

xReed Stringham, <i>Deputy Comm.</i>	xTracy Klausmeier, <i>P&C Dir.</i>	xSteve Gooch, <i>PIO Recorder</i>
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PUBLIC

Kim Holbrook	Nancy Frandsen	Nathan Sprague
Beau Pili	David Dickers	Steve Strong
Wade Taylor	Jonathan Ivins	Rachael Boettcher
Perri Babalis	Scott Cope	Joseph McPhie
Mike Sumner		

MINUTES

General Session: (Open to the Public)

- **Welcome** / Cal Robinson, Chair (9:04 AM)
- **Telephone Roll Call**
- **New Business**
 - Discuss potential changes related to 31A-19a-209(3)
 - Chase notes that the TEC was very interested in making sure everyone has a voice.
 - Reed suggests that the discussion should start with deciding whether the UID should even regulate profitability.
 - Chase says the question at hand is whether the UID is interpreting the statute correctly. He believes it has, and says they will begin enforcing it as written.
 - Matt discourages changes to the statute. 31A-19a-209(3)(a) says title licensees should not operate at less than the cost of doing business. That doesn't need to change. He suggests changes be made to R592-15 to provide guidance on enforcement. Justin agrees.
 - Reed says there are several people in the UID and industry who think the UID has correctly interpreted the statute. If the interpretation is correct, the statute is the problem and a rule change won't fix it.

- Matt notes that one issue is that the statute separates title rates from escrow fees, but they're interrelated. Separating title rates from escrow fees would be almost impossible. The payments and premiums for title go to offset escrow because escrow does so much work in title. Reed says that makes sense, but the idea of the regulation is to keep them separate.
 - Adam says 406 says escrow is segregated escrow by escrow, and 16-4 says each escrow transaction stands on its own. He and the UID have interpreted that escrow stands alone.
 - Matt says it's problematic on a per-file basis to say that a file is profitable because it's impossible to track. It becomes a problem for the industry if you're filing different fees for different transactions.
 - Blake says the original complaint is that the rates filed by agencies do not cover the cost of doing business, and it's not being enforced. Adam needs the tools to be able to tell when rates are filed whether the rates cover the cost of doing business.
 - Darla says this is coming up because of how an escrow transaction comes together. The bulk of transactions are residential, and fees have to be quoted at the start before they know what the transaction will entail, and quotes can't be changed without a change in circumstance. That would delay closing for a buyer. A specific file could have a gargantuan number of changes, but the agency charged \$125 at the start and now won't cover the work involved. But they can't change the fee due to federal regulations.
 - Chase suggests that the subcommittee make a recommendation to the Commissioner to determine what is "not operating at less than the cost of doing business." It's not per-file — it's year-end operations. Everyone understands that there are files where you'll operate at a loss, but the intent is not to allow escrow to operate as a loss leader. Reed says that's a good idea given where opinions are, but part of the submission should include concrete reasons why changing the statute isn't the way to do it.
 - Joseph McPhie makes a number of suggestions to change the statute, to comply with the Commissioner's letter. He notes that title and escrow are totally separate businesses in other states. Assuming a pseudo-separation that doesn't exist in Utah can create a potential for driving things underground or hiding profit that is hard for a licensee to justify. He says the requirement to separate escrow from title isn't possible and needs to be done away with. The regulatory arm of the UID and the TEC still come into play with regulating unfair inducements and material inducements without the false division of escrow from title.
 - Matt says if the industry keeps status quo, there will need to be an overhaul of the statute. The statute is clear. There needs to be an overhaul of the rule to address the issues. Darla agrees with recommending the rule change. So does Cal.
 - Reed says the subcommittee needs to submit to the TEC a reasonable discussion of why it should be a rule change versus a statute change. Matt will work with the ULTA and the subcommittee to draft a letter from the subcommittee to the TEC.
- **Adjourn** (10:41 AM)
 - **Next Meeting: September 13, 2021** — Bonneville Room, Taylorsville State Office Building