



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: Sept. 20, 2021

Time: 9:00 AM

Place: In Person

Cottonwood Title
1996 E. 6400 S.
Murray, UT 84121

Virtual

Google Meet

ATTENDEES

TITLE & ESCROW SUBCOMMITTEE

Chair, Cal Robinson (*Title & Escrow Commission*)

xChase Phillips (*Title & Escrow Commission*)

xBlake Heiner (*Industry*)

xJustin Sutherland (*Industry*)

xDarla Milovich (*Title & Escrow Commission*)

xAdam Martin (*Insurance Department*)

xMatt Sager (*Industry*)

DEPARTMENT STAFF

xReed Stringham, *Deputy Comm.*

xTracy Klausmeier, *P&C Dir.*

xSteve Gooch, *PIO Recorder*

PUBLIC

Steve Strong

Jon Ivins

David Moore

Scott Cope

Cort Ashton

James Seaman

Joseph McPhie

Nathan Sprague

Rachael Ortiz

Jeff Wiener

Wade Taylor

Nancy Frandsen

MINUTES

General Session: (Open to the Public)

- **Welcome** / Darla Milovich (9:05 AM)
- **Telephone Roll Call**
- **New Business**
 - Discuss potential changes related to 31A-19a-209(3) and R592-15
 - Justin Sutherland notes that title and escrow don't run separately and never have. The goal for the ULTA is to find the simplest change that keeps the status quo. He notes that there aren't a ton of consumer complaints about this — there's one, and that's it. Not regulating escrow fees would create a run to the bottom, but we can't increase fees to the consumer either. The ULTA strongly opposes any requirement for a letter from a CPA. The ULTA proposes that each year, all companies submit a self-certifying statement with the average escrow fee charged in the previous 12 months. Based on that data, the UID will establish an industry average escrow fee. Companies would be prohibited from charging escrow fees less than 50% of the average, which would stop the run to the bottom. This includes everything except commercial transactions. Companies also cannot charge an escrow fee that differs from what was quoted to the consumer. This sets the industry standard.

- Blake Heiner asks why its set at 50%, why not set the floor at the industry standard. Rachael Ortiz says it's to account for rural counties. It allows flexibility for a range in rural areas. Steve Strong says pegging it at 50% accounts for variability in the complexity of closings.
 - Jeff Wiener says discounts are given to builders or for other types of service. The way he reads this, there's a standard rate, but if you're going to file a discount, it can't be less than 50%. Jeff notes that you don't just file one escrow rate — there are many, and one will be the discounted rate, which can't be less than 50%. It's not dissimilar to how rates are filed now.
 - Steve Strong says in calculating the minimum, you just use residential closings, so the consumer isn't disadvantaged. Then that minimum is the minimum for everything.
 - James Seaman asks if company filings will be made public record, and notes that it would be important for transparency. Jeff clarifies that the UID could publish all the filings, and then the average. James says yes. Rachael asks if it would make sense for the calculation to be published.
 - Reed asks how this is different from filing minimum rates. Justin says is establishes a floor, but keeps the status quo. Reed says why not keep the minimum rates and eliminate the statute. Rachael says it lets the market drive the rates, rather than the UID having to do it. This would make the industry regulate itself.
 - Matt says the minimum fee has only ever set the low number, and doesn't really serve a purpose. Jon Ivins says it likely causes more problems and confusion in the industry. Reed says the proposed system would create the same confusion because people would wonder why they are being charged more than the minimum. Jon says a published industry standard would keep the industry closer to that figure. Justin says consumers haven't raised the issue — it's the industry.
 - The idea is that every company will submit one number: the average of their charged fees. The UID will add up those numbers, divide by the submissions, and that will be the industry average. Then no fee can go more than 50% below that number. Adam says there will be 187 submissions.
 - Reed asks about a company faking their average. Justin says that would show itself because they would be significantly lower than everyone else. An outlier will ruin themselves. Reed asks if the UID will be required to look for fakers or would the industry report it. Darla says the UID would have to look at the company's financials, which is what the UID is trying to avoid.
 - Reed asks about the 50% number because he expects the legislature to ask about it. Why 50% instead of another number? Jon says most underwriter manuals follow a similar discount schedule, which max out at 40-50% of discounted premium. It's kind of an industry standard. Rachael says they didn't go lower because it wouldn't be fair for a smaller company to have to charge what a larger company in a bigger county would have to. They didn't go higher because they're trying to avoid a race to the bottom.
 - The majority of companies on the ULTA's legislative committee are larger companies. Reed would like to see buy-in from smaller companies as well, so it's clear that this isn't a just push by the larger companies. Justin says his company (Sutherland Title) is a smaller agency and he supports it. The proposal will be sent to the wider ULTA membership for comment too. Jeff notes that the full ULTA represents all geographies and close to 80% of the licensed agents in the state.
 - Darla says the next step is for the ULTA to get member buy-in, then present it to the TEC.
 - Reed asks if this will be an annual process. Jon says it could be every 2-3 years, but is currently proposed as annual because that's what the statute says.
 - The reporting will be done as a certified statement that is submitted with the annual report.
- **Adjourn** (10:01 AM)