

**Superseded 5/12/2015**

**31A-23a-415 Assessment on agency title insurance producers or title insurers -- Account created.**

- (1) For purposes of this section:
  - (a) "Premium" is as defined in Subsection 59-9-101(3).
  - (b) "Title insurer" means a person:
    - (i) making any contract or policy of title insurance as:
      - (A) insurer;
      - (B) guarantor; or
      - (C) surety;
    - (ii) proposing to make any contract or policy of title insurance as:
      - (A) insurer;
      - (B) guarantor; or
      - (C) surety; or
    - (iii) transacting or proposing to transact any phase of title insurance, including:
      - (A) soliciting;
      - (B) negotiating preliminary to execution;
      - (C) executing of a contract of title insurance;
      - (D) insuring; and
      - (E) transacting matters subsequent to the execution of the contract and arising out of the contract.
  - (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or personal property located in Utah, an owner of real or personal property, the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of:
    - (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the property; or
    - (ii) invalidity or unenforceability of any liens or encumbrances on the property.
- (2)
  - (a) The commissioner may assess each title insurer, each individual title insurance producer who is not designated by an agency title insurance producer, and each agency title insurance producer an annual assessment:
    - (i) determined by the Title and Escrow Commission:
      - (A) after consultation with the commissioner; and
      - (B) in accordance with this Subsection (2); and
    - (ii) to be used for the purposes described in Subsection (3).
  - (b) An agency title insurance producer and individual title insurance producer who is not designated by an agency title insurance producer shall be assessed up to:
    - (i) \$250 for the first office in each county in which the agency title insurance producer or individual title insurance producer maintains an office; and
    - (ii) \$150 for each additional office the agency title insurance producer or individual title insurance producer maintains in the county described in Subsection (2)(b)(i).
  - (c) A title insurer shall be assessed up to:
    - (i) \$250 for the first office in each county in which the title insurer maintains an office;
    - (ii) \$150 for each additional office the title insurer maintains in the county described in Subsection (2)(c)(i); and
    - (iii) an amount calculated by:
      - (A) aggregating the assessments imposed on:

- (I) agency title insurance producers and individual title insurance producers under Subsection (2)(b); and
  - (II) title insurers under Subsections (2)(c)(i) and (2)(c)(ii);
  - (B) subtracting the amount determined under Subsection (2)(c)(iii)(A) from the total costs and expenses determined under Subsection (2)(d); and
  - (C) multiplying:
    - (I) the amount calculated under Subsection (2)(c)(iii)(B); and
    - (II) the percentage of total premiums for title insurance on Utah risk that are premiums of the title insurer.
  - (d) Notwithstanding Section 31A-3-103 and subject to Section 31A-2-404, the Title and Escrow Commission by rule shall establish the amount of costs and expenses described under Subsection (3) that will be covered by the assessment, except the costs or expenses to be covered by the assessment may not exceed \$80,000 annually.
- (3)
- (a) Money received by the state under this section shall be deposited into the Title Licensee Enforcement Restricted Account.
  - (b) There is created in the General Fund a restricted account known as the "Title Licensee Enforcement Restricted Account."
  - (c) The Title Licensee Enforcement Restricted Account shall consist of the money received by the state under this section.
  - (d) The commissioner shall administer the Title Licensee Enforcement Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Title Licensee Enforcement Restricted Account only to pay for a cost or expense incurred by the department in the administration, investigation, and enforcement of this part and Part 5, Compensation of Producers and Consultants, related to:
    - (i) the marketing of title insurance; and
    - (ii) audits of agency title insurance producers.
  - (e) An appropriation from the Title Licensee Enforcement Restricted Account is nonlapsing.
- (4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).