

# HB0503S01 compared with HB0503

~~{Omitted text}~~ shows text that was in HB0503 but was omitted in HB0503S01

inserted text shows text that was not in HB0503 but was inserted into HB0503S01

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**Real Estate Modifications**  
2026 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Anthony E. Loubet**  
Senate Sponsor:



2

3 **LONG TITLE**

4 **General Description:**

5 This bill ~~{addresses requirements for real estate transactions}~~ modifies affiliated business  
arrangements in title insurance.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ ~~{defines terms;}~~
- 8 ▶ modifies the definition of "affiliated business";
- 9 ▶ provides a framework for ~~{the issuance of an attorney opinion letter in lieu of title insurance for~~  
purposes of conducting escrow on real property transactions} RESPA compliance based on revenue  
concentration; and
- 11 ▶ makes technical and conforming changes.

11 **Money Appropriated in this Bill:**

12 None

13 **Other Special Clauses:**

14 None

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15 **Utah Code Sections Affected:**

16 AMENDS:

18 ~~{31A-23a-406, as last amended by Laws of Utah 2024, Chapter 120}~~

17 **31A-23a-1001, as last amended by Laws of Utah 2020, Chapter 448**

18 **31A-23a-1003, as last amended by Laws of Utah 2020, Chapter 448**

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20 *Be it enacted by the Legislature of the state of Utah:*

21 ~~{Section 1. Section 31A-23a-406 is amended to read: }~~

22 **31A-23a-406. Title insurance producer's business.**

23 (1) As used in this section:

24 (a)

(i) "Attorney opinion letter" means a written statement that:

25 (A) assesses the condition of the title to real property for a loan that is eligible for sale to a government-sponsored enterprise; and

27 (B) comes from an attorney licensed to practice law in the state that the lender responsible for curing title defects obtains.

29 (ii) "Attorney opinion letter" does not mean insurance against loss or damage a lender sustains from title defects.

31 (b) "Automated clearing house network" or "ACH network" means a national electronic funds transfer system [regulated by the Federal Reserve and the Office of the Comptroller of the Currency.] the Federal Reserve and the Office of the Comptroller of the Currency regulates.

35 [(b)] (c) "Depository institution" means the same as that term is defined in Section 7-1-103.

37 [(e)] (d) "Funds transfer system" means the same as that term is defined in Section 70A-4a-105.

39 (e) "Producer" means an individual title insurance producer or an agency title insurance producer.

41 (2) ~~[An individual title insurance producer or agency title insurance producer]~~ A producer may [do] perform escrow involving real property transactions if~~[all of the following exist]:~~

43 (a) the ~~[individual title insurance producer or agency title insurance]~~producer is licensed with:

45 (i) the title line of authority; and

46 (ii) the escrow subline of authority;

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- (b) ~~[the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state]~~ a title insurer authorized to do business in the state appoints the producer;
- 50 (c) except as provided in Subsection (4), the ~~[individual title insurance producer or agency title insurance]~~producer issues one or more of the following as part of the transaction:
- 53 (i) an owner's policy offering title insurance;
- 54 (ii) a lender's policy offering title insurance;
- 55 (iii) an attorney opinion letter; or
- 56 ~~[(iii)]~~ (iv) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;
- 58 (d) ~~[money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited]~~ the producer deposits the money received in escrow:
- 61 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
- 62 (A) has a branch in this state, if the ~~[individual title insurance producer or agency title insurance]~~producer depositing the money is a resident licensee; and
- 64 (B) ~~[is authorized by]~~the depository institution's primary regulator authorizes to engage in trust business, as defined in Section 7-5-1, in this state; and
- 66 (ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;
- 68 (e) ~~[money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow]~~ the producer treats money received in escrow as the property of the persons entitled to the money received under the provisions of the escrow agreement;
- 73 (f) ~~[money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer]~~ the producer segregates escrow funds on an escrow-by-escrow basis;
- 77 (g) the producer pays earnings on money held in escrow ~~[may be paid out of]~~ from the trust account~~[ to any person]~~ in accordance with the conditions of the escrow agreement;
- 80 (h) the escrow does not require the ~~[individual title insurance producer or agency title insurance]~~producer to hold:

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- 82 (i) construction money; or
- 83 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- 84 (i) the ~~[individual title insurance producer or agency title insurance producer shall maintain]~~ producer  
maintains a physical office in ~~[Utah staffed by a]~~ the state that a person with an escrow subline of  
authority [who] that processes the escrow staffs.
- 87 (3) Notwithstanding Subsection (2), ~~[an individual title insurance producer or agency title insurance]~~ a  
producer may engage in the escrow business if:
- 89 (a) the escrow involves:
- 90 (i) a mobile home;
- 91 (ii) a grazing right;
- 92 (iii) a water right; or
- 93 (iv) other personal property ~~[authorized by the commissioner]~~ the commissioner authorizes; and
- 95 (b) the ~~[individual title insurance producer or agency title insurance]~~ producer complies with this  
section except for Subsection (2)(c).
- 97 (4)
- (a) Subsection (2)(c) does not apply if the transaction is for the transfer of real property from the School  
and Institutional Trust Lands Administration.
- 99 (b) This subsection does not prohibit ~~[an individual title insurance producer or agency title insurance]~~ a  
producer from issuing a policy described in Subsection (2)(c) as part of a transaction described in  
Subsection (4)(a).
- 102 ~~[(5) Money held in escrow:]~~
- 103 ~~[(a) is not subject to any debts of the individual title insurance producer or agency title insurance~~  
~~producer;]~~
- 105 ~~[(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted;~~  
~~and]~~
- 107 ~~[(c) may not be used until the conditions of the escrow are met.]~~
- 108 (5) The producer may not:
- 109 (a) subject the money held in escrow to debts of the producer;
- 110 (b) use the money held in escrow outside the terms of the individual escrow under which the producer  
accepts the money; and
- 112 (c) use the money held in escrow until the conditions of the escrow are met.

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- 113 (6) ~~[Assets-]~~ A producer shall maintain assets, or property other than escrow money ~~[received by an individual title insurance producer or agency title insurance-]~~ the producer receives, in accordance with an escrow~~[-shall be maintained-]~~ in a manner that will:
- 116 (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and
- 117 (b) ~~[otherwise-]~~ comply with the general duties and responsibilities of a fiduciary or bailee.
- 119 (7)
- (a) A check from the trust account described in Subsection (2)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated trust account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.
- 124 (b) As used in this Subsection (7), money is considered to be "collected and cleared," and may be disbursed as follows:
- 126 (i) cash may be disbursed on the same day the cash is deposited;
- 127 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
- 128 (iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than \$10,000:
- 132 (A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;
- 134 (B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the ~~[individual title insurance producer or agency title insurance-]~~producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the ~~[individual title insurance producer or agency title insurance-]~~producer's trust account;
- 141 (C) a personal check not to exceed \$500 per closing; or
- 142 (D) a check drawn on the trust account of another ~~[individual title insurance producer or agency title insurance-]~~producer, if the ~~[individual title insurance producer or agency title insurance-]~~producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of

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disbursement of money from the trust account of the [~~individual title insurance producer or agency title insurancee~~]producer in the escrow transaction;

- 150 (iv) deposits made through the ACH network may be disbursed on the same day the deposit is made if:
- 152 (A) the transferred funds remain uniquely designated and traceable throughout the entire ACH network transfer process;
- 154 (B) except as a function of the ACH network process, the transferred funds are not subject to comingling or third party access during the transfer process;
- 156 (C) the transferred funds are deposited into the title insurance producer's trust account and are available for disbursement; and
- 158 (D) either the ACH network payment type or the title insurance producer's systems prevent the transaction from being unilaterally canceled or reversed by the consumer once the transferred funds are deposited to the individual title insurance producer or agency title producer; or
- 162 (v) deposits may be disbursed on the same day the deposit is made if the deposit is made via:
- 164 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds transfer system; or
- 166 (B) a funds transfer system provided by an association of federally insured depository institutions.
- 168 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:
- 169 (i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or
- 172 (ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.
- 174 (8) [~~An individual title insurance producer or agency title insurancee~~] A producer shall maintain a record of a receipt or disbursement of escrow money.
- 176 (9) [~~An individual title insurance producer or agency title insurancee~~] A producer shall comply with:
- 178 (a) Section 31A-23a-409;
- 179 (b) Title 46, Chapter 1, Notaries Public Reform Act; and
- 180 (c) any rules [~~adopted by~~] that the Title and Escrow Commission adopts, subject to Section 31A-2-404, that govern escrows.
- 182 (10) If [~~an individual title insurance producer or agency title insurancee~~] a producer conducts a search for real estate located in the state, the [~~individual title insurance producer or agency title insurancee~~]producer shall conduct a reasonable search of the public records.

21 Section 1. Section 31A-23a-1001 is amended to read:

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### 22 31A-23a-1001. Definitions.

As used in this part:

- 24 (1) "Affiliated business" means the gross [~~transaction~~] title premium revenue of a title entity's title  
insurance business in the state that is the result of an affiliated business arrangement.
- 27 (2) "Affiliated business arrangement" means the same as that term is defined in 12 U.S.C. Sec. 2602,  
except the services that are the subject of the arrangement do not need to involve a federally related  
mortgage loan.
- 30 (3) "Applicable percentage" means:
- 31 (a) on February 1, 2020, through January 31, 2021, 0.5%;
- 32 (b) on February 1, 2021, through January 31, 2022, 1%;
- 33 (c) on February 1, 2022, through January 31, 2023, 1.5%;
- 34 (d) on February 1, 2023, through January 31, 2024, 2%;
- 35 (e) on February 1, 2024, through January 31, 2025, 2.5%;
- 36 (f) on February 1, 2025, through January 31, 2026, 3%;
- 37 (g) on February 1, 2026, through January 31, 2027, 3.5%;
- 38 (h) on February 1, 2027, through January 31, 2028, 4%; and
- 39 (i) on February 1, 2028, through January 31, 2029, 4.5%.
- 40 (4) "Associate" means the same as that term is defined in 12 U.S.C. Sec. 2602.
- 41 (5) "Division" means the Division of Real Estate created in Section 61-2-201.
- 42 (6) "Essential function" means:
- 43 (a) examining and evaluating, based on relevant law and title insurance underwriting principles and  
guidelines, title evidence to determine the insurability of a title and which items to include or  
exclude in a title commitment or title insurance policy to be issued;
- 47 (b) preparing and issuing a title commitment or other document that:
- 48 (i) discloses the status of the title as the title is proposed to be insured;
- 49 (ii) identifies the conditions that must be met before a title insurance policy will be issued; and
- 51 (iii) obligates the insurer to issue a title insurance policy if the conditions described in Subsection (6)(b)  
(ii) are met;
- 53 (c) clearing underwriting objections and taking the necessary steps to satisfy any conditions to the  
issuance of a title insurance policy;
- 55 (d) preparing the issuance of a title insurance policy; or

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- 56 (e) handling the closing or settlement of a real estate transaction when:
- 57 (i) it is customary for a title entity to handle the closing or settlement; and
- 58 (ii) the title entity's compensation for handling the closing or settlement is customarily part of the  
payment or retention from the insurer.
- 60 (7) "New or newly affiliated title entity" means a title entity that:
- 61 (a) is licensed as a title entity for the first time on or after May 14, 2019; or
- 62 (b)
- (i) is licensed as a title entity before May 14, 2019; and
- 63 (ii) enters into an affiliated business arrangement for the first time on or after May 14, 2019.
- 65 (8) "Producer" means the same as the term "person who is in a position to refer settlement service  
business" is defined in 12 C.F.R. Sec. 1024.15(c).
- 67 (9) "RESPA" means the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and  
any rules made thereunder.
- 69 (10) "Section 8 of RESPA" means 12 U.S.C. Sec. 2607 and any rules promulgated thereunder.
- 71 (11) "Sufficient capital and net worth" means:
- 72 (a) for a new or newly affiliated title entity:
- 73 (i) \$100,000 for the first five years after becoming a new or newly affiliated title entity; or
- 75 (ii) after the first five years after becoming a new or newly affiliated title entity, the greater of:
- 77 (A) \$50,000; or
- 78 (B) on February 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue  
over the preceding two calendar years, up to \$150,000; or
- 80 (b) for a title entity licensed before May 14, 2019, who is not a new or newly affiliated title entity:
- 82 (i) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of:
- 84 (A) an amount equal to the applicable percentage of the title entity's average annual gross revenue over  
the two calendar years immediately preceding the February 1 on which the applicable percentage  
first applies; or
- 87 (B) \$150,000; and
- 88 (ii) beginning on February 1, 2029, the greater of:
- 89 (A) \$50,000; or
- 90 (B) an amount equal to 5% of the title entity's average annual gross revenue over the preceding two  
calendar years, up to \$150,000.

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92 (12) "Title entity" means:

93 (a) a title licensee as defined in Section 31A-2-402; or

94 (b) a title insurer as defined in Section 31A-23a-415.

95 (13)

(a) "Title evidence" means a written or electronic document that identifies and describes or compiles the documents, records, judgments, liens, and other information from the public records relevant to the history and current condition of a title to be insured.

99 (b) "Title evidence" does not include a pro forma commitment.

100 Section 2. Section 31A-23a-1003 is amended to read:

101 **31A-23a-1003. Affiliated business arrangements.**

102 (1) An affiliated business arrangement between a person and a title entity violates Section 8 of RESPA for purposes of state law if:

104 (a) ~~[the title entity does not have sufficient capital and net worth in a reserve account in the title entity's name; or]~~ the title entity lacks sufficient capital and net worth maintained in a reserve account in the title entity's name; or

107 (b) 70% or more of the title entity's annual title premiums are derived from affiliated business, excluding title premiums calculated using filed centralized rates from a title insurance underwriter.

110 ~~[(b) more than 70% of the title entity's annual title insurance business is affiliated business on or after the later of:]~~

112 ~~[(i) two years after the title entity begins an affiliated business arrangement; or]~~

113 ~~[(ii) June 1, 2021.]~~

114 (2) In addition to Subsection (1), the division may find that an affiliated business arrangement between a person and a title entity violates Section 8 of RESPA after evaluating and weighing the following factors in light of the specific facts before the division:

118 (a) whether the title entity:

119 (i) is staffed with the title entity's own employees to conduct title insurance business;

120 (ii) manages the title entity's own business affairs;

121 (iii) has a physical office for business that is separate from any producer's or associate's office and pays market rent;

123 (iv) provides the essential functions of title insurance business for a fee, including incurring the risks and receiving the rewards of any comparable title entity; and

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- 125 (v) performs the essential functions of title insurance business itself;
- 126 (b) if the title entity contracts with another person to perform a portion of the title entity's title insurance  
business, whether the contract:
- 128 (i) is with an independent third party; and
- 129 (ii) provides payment for the services that bears a reasonable relationship to the value of the services or  
goods received; and
- 131 (c) whether the person from whom the title entity receives referrals under the affiliated business  
arrangement also sends title insurance business to other title entities.

133 **Section 3. Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-17-26 8:57 AM