

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

LONG TITLE

General Description:

This bill addresses requirements for real estate transactions.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the issuance of an attorney opinion letter in lieu of title insurance for purposes of conducting escrow on real property transactions; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **31A-23a-406** is amended to read:

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

(1) As used in this section:

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

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

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

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

(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.

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

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

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

(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]:~~

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

(i) the title line of authority; and

(ii) the escrow subline of authority;

(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;

(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:

(i) an owner's policy offering title insurance;

(ii) a lender's policy offering title insurance;

(iii) an attorney opinion letter; or

~~[(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;

(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:

(i) in a federally insured depository institution, as defined in Section 7-1-103, that:

(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

(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
- (ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;
- (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;
- (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;
- (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;
- (h) the escrow does not require the ~~[individual title insurance producer or agency title insurance]~~producer to hold:
- (i) construction money; or
- (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- (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.
- (3) Notwithstanding Subsection (2), ~~[an individual title insurance producer or agency title insurance]~~ a producer may engage in the escrow business if:
- (a) the escrow involves:
- (i) a mobile home;
- (ii) a grazing right;
- (iii) a water right; or
- (iv) other personal property ~~[authorized by the commissioner]~~ the commissioner authorizes; and
- (b) the ~~[individual title insurance producer or agency title insurance]~~producer complies with this section except for Subsection (2)(c).
- (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.

(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).

~~[(5) Money held in escrow:]~~

~~[(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;]~~

~~[(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and]~~

~~[(c) may not be used until the conditions of the escrow are met.]~~

~~(5) The producer may not:~~

~~(a) subject the money held in escrow to debts of the producer;~~

~~(b) use the money held in escrow outside the terms of the individual escrow under which the producer accepts the money; and~~

~~(c) use the money held in escrow until the conditions of the escrow are met.~~

~~(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:~~

~~(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and~~

~~(b) [otherwise-]comply with the general duties and responsibilities of a fiduciary or bailee.~~

(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.

(b) As used in this Subsection (7), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;

(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:

(A) a cashier's check, certified check, or official check that is drawn on an existing

- 133 account at a federally insured financial institution;
- 134 (B) a check drawn on the trust account of a principal broker or associate broker
135 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if
136 the ~~[individual title insurance producer or agency title insurance]~~producer has
137 reasonable and prudent grounds to believe sufficient money will be available
138 from the trust account on which the check is drawn at the time of disbursement
139 of proceeds from the ~~[individual title insurance producer or agency title~~
140 ~~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~~
143 ~~producer or agency title insurance]~~producer, if the ~~[individual title insurance~~
144 ~~producer or agency title insurance]~~producer in the escrow transaction has
145 reasonable and prudent grounds to believe that sufficient money will be
146 available for withdrawal from the account upon which the check is drawn at
147 the time of disbursement of money from the trust account of the ~~[individual~~
148 ~~title insurance producer or agency title insurance]~~producer in the escrow
149 transaction;
- 150 (iv) deposits made through the ACH network may be disbursed on the same day the
151 deposit is made if:
- 152 (A) the transferred funds remain uniquely designated and traceable throughout the
153 entire ACH network transfer process;
- 154 (B) except as a function of the ACH network process, the transferred funds are not
155 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
157 account and are available for disbursement; and
- 158 (D) either the ACH network payment type or the title insurance producer's
159 systems prevent the transaction from being unilaterally canceled or reversed by
160 the consumer once the transferred funds are deposited to the individual title
161 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
163 made via:
- 164 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds
165 transfer system; or
- 166 (B) a funds transfer system provided by an association of federally insured

- 167 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
- 170 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal
- 171 Reserve System; or
- 172 (ii) upon notification from the financial institution to which the money has been
- 173 deposited that final settlement has occurred on the deposited financial instrument.
- 174 (8) ~~[An individual title insurance producer or agency title insurance]~~ A producer shall
- 175 maintain a record of a receipt or disbursement of escrow money.
- 176 (9) ~~[An individual title insurance producer or agency title insurance]~~ A producer shall
- 177 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
- 181 Section 31A-2-404, that govern escrows.
- 182 (10) If ~~[an individual title insurance producer or agency title insurance]~~ a producer conducts
- 183 a search for real estate located in the state, the ~~[individual title insurance producer or~~
- 184 ~~agency title insurance]~~ producer shall conduct a reasonable search of the public records.
- 185 Section 2. **Effective Date.**
- 186 This bill takes effect on May 6, 2026.