

Anthony E. Loubet proposes the following substitute bill:

Real Estate Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Anthony E. Loubet

Senate Sponsor:

LONG TITLE

General Description:

This bill modifies affiliated business arrangements in title insurance.

Highlighted Provisions:

This bill:

- modifies the definition of "affiliated business";
- provides a framework for RESPA compliance based on revenue concentration; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

31A-23a-1001 . Definitions.

As used in this part:

- (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.
- (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
- 44 principles and guidelines, title evidence to determine the insurability of a title and
- 45 which items to include or exclude in a title commitment or title insurance policy to be
- 46 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
- 50 issued; and
- 51 (iii) obligates the insurer to issue a title insurance policy if the conditions described in
- 52 Subsection (6)(b)(ii) are met;
- 53 (c) clearing underwriting objections and taking the necessary steps to satisfy any
- 54 conditions to the issuance of a title insurance policy;
- 55 (d) preparing the issuance of a title insurance policy; or
- 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
- 59 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

- 64 14, 2019.
- 65 (8) "Producer" means the same as the term "person who is in a position to refer settlement
66 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.
68 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
70 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
74 entity; or
- 75 (ii) after the first five years after becoming a new or newly affiliated title entity, the
76 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
79 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
81 title entity:
- 82 (i) for the time period beginning on February 1, 2020, and ending on January 31,
83 2029, the lesser of:
- 84 (A) an amount equal to the applicable percentage of the title entity's average
85 annual gross revenue over the two calendar years immediately preceding the
86 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
91 the preceding two calendar years, up to \$150,000.
- 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
96 describes or compiles the documents, records, judgments, liens, and other
97 information from the public records relevant to the history and current condition of a

98 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
103 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~~
105 ~~the title entity's name; or]~~ the title entity lacks sufficient capital and net worth
106 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
108 business, excluding title premiums calculated using filed centralized rates from a title
109 insurance underwriter.

110 ~~[(b) more than 70% of the title entity's annual title insurance business is affiliated~~
111 ~~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
115 arrangement between a person and a title entity violates Section 8 of RESPA after
116 evaluating and weighing the following factors in light of the specific facts before the
117 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
122 associate's office and pays market rent;

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

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
127 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
130 of the services or goods received; and

131 (c) whether the person from whom the title entity receives referrals under the affiliated

132 business arrangement also sends title insurance business to other title entities.

133 Section 3. **Effective Date.**

134 This bill takes effect on May 6, 2026.