

**Part 4**  
**Title and Escrow Commission Act**

**31A-2-401 Title.**

This part is known as the "Title and Escrow Commission Act."

Enacted by Chapter 185, 2005 General Session

**31A-2-402 Definitions.**

As used in this part:

- (1) "Commission" means the Title and Escrow Commission created in Section 31A-2-403.
- (2) "Concurrence" means the entities given a concurring role must jointly agree for the action to be taken.
- (3) "Dual licensed title licensee" means a title licensee who holds:
  - (a) an individual title insurance producer license as a title licensee; and
  - (b) a license or certificate under:
    - (i) Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;
    - (ii) Title 61, Chapter 2f, Real Estate Licensing and Practices Act; or
    - (iii) Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.
- (4) "Real Estate Commission" means the Real Estate Commission created in Section 61-2f-103.
- (5) "Title insurance matter" means a matter related to:
  - (a) title insurance;
  - (b) an escrow conducted by an individual title insurance producer or agency title insurance producer;
  - (c) licensing, examination, and continuing education of an applicant to be a title licensee; or
  - (d) conduct of a title licensee.
- (6) "Title licensee" means a person licensed under this title as:
  - (a) an agency title insurance producer with a title insurance line of authority;
  - (b) an individual title insurance producer with:
    - (i) a general title insurance line of authority; or
    - (ii) a specific category of authority for title insurance; or
  - (c) a title insurance adjuster.

Amended by Chapter 330, 2015 General Session

**31A-2-403 Title and Escrow Commission created.**

- (1)
  - (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members who shall be, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appointed by the governor with the advice and consent of the Senate as follows:
    - (i) except as provided in Subsection (1)(d), two members shall be employees of a title insurer;
    - (ii) two members shall:
      - (A) be employees of a Utah agency title insurance producer;
      - (B) be or have been licensed under the title insurance line of authority;
      - (C) as of the day on which the member is appointed, be or have been licensed with the title examination or escrow subline of authority for at least five years; and

- (D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and
- (iii) one member shall be a member of the general public from any county in the state.
- (b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.
- (c) No more than two commission members may be employees of an entity operating under an affiliated business arrangement, as defined in Section 31A-23a-1001.
- (d) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):
  - (i) one member who is an employee of a title insurer; and
  - (ii) one member who is an employee of a Utah agency title insurance producer.
- (2)
  - (a) Subject to Subsection (2)(c), a commission member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.
  - (b) The disclosure statement required by this Subsection (2) shall be:
    - (i) filed by no later than the day on which the person begins that person's appointment; and
    - (ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).
  - (c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.
- (3)
  - (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.
  - (c) A commission member may not serve more than one consecutive term.
  - (d) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.
  - (e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the advice and consent of the Senate.
- (4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) Members of the commission shall annually select one commission member to serve as chair.
- (6)
  - (a)
    - (i) Except as provided in Subsection (6)(b), the commission shall meet at least monthly.
    - (ii)

- (A) The commissioner shall, with the concurrence of the chair of the commission, designate one monthly meeting per calendar year as an in-person meeting.
  - (B) A commission member may, after providing advance notice to the commissioner, attend an in-person meeting through electronic means.
  - (b)
    - (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.
    - (ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).
  - (c) The commissioner may call additional meetings:
    - (i) at the commissioner's discretion;
    - (ii) upon the request of the chair of the commission; or
    - (iii) upon the written request of three or more commission members.
  - (d)
    - (i) Three commission members constitute a quorum for the transaction of business.
    - (ii) The action of a majority of the commission members when a quorum is present is the action of the commission.
- (7) The commissioner shall staff the commission.

Amended by Chapter 198, 2022 General Session

**31A-2-404 Duties of the commissioner and Title and Escrow Commission.**

- (1)
  - (a) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to a title insurance matter.
  - (b)
    - (i) The commissioner may impose a penalty:
      - (A) under this title related to a title insurance matter;
      - (B) after investigation by the commissioner in accordance with Part 3, Procedures and Enforcement; and
      - (C) that is enforced by the commissioner.
    - (ii) The commissioner shall consult with and seek concurrence of the commission in a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the imposition of a penalty, and if concurrence cannot be reached, the commissioner has final authority.
  - (c) Unless a provision of this title grants specific authority to the commission, the commissioner has authority over the implementation of this title related to a title insurance matter. When a provision requires concurrence between the commission and commissioner, and concurrence cannot be reached, the commissioner has final authority.
  - (d) Except as provided in Subsection (1)(e), when this title requires concurrence between the commissioner and commission related to a title insurance matter:
    - (i) the commissioner shall report to and update the commission on a regular basis related to that title insurance matter; and
    - (ii) the commission shall review the report submitted by the commissioner under this Subsection (1)(d) and concur with the report, or:
      - (A) provide a reason for not concurring with the report; and
      - (B) provide recommendations to the commissioner.

- (e) When this title requires concurrence between the commissioner and commission under Subsection (2), (3), or (4):
  - (i) the commission shall report to and update the commissioner on a regular basis related to that title insurance matter; and
  - (ii) the commissioner shall review a report submitted by the commission under this Subsection (1)(e) and concur with the report or:
    - (A) provide a reason for not concurring with the report; and
    - (B) provide recommendations to the commission.
- (2) The commission shall:
  - (a) subject to Subsection (4), make rules for the administration of the provisions in this title related to title insurance matters including rules related to:
    - (i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;
    - (ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;
    - (iii) continuing education requirements of Section 31A-23a-202; and
    - (iv) standards of conduct for a title licensee;
  - (b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or 31A-26-203;
  - (c) in accordance with Section 31A-3-103, establish, with the concurrence of the commissioner, the fees imposed by this title on a title licensee;
  - (d) in accordance with Section 31A-23a-415 determine, after consulting with the commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;
  - (e) with the concurrence of the commissioner, approve a continuing education program required by Section 31A-23a-202;
  - (f) on a regular basis advise the commissioner of the most critical matters affecting the title insurance industry and request the commissioner to direct the department's investigative resources to investigate and enforce those matters;
  - (g) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation conducted by the commissioner's test administrator;
  - (h) advise the commissioner on matters affecting the commissioner's budget related to title insurance; and
  - (i) perform other duties as provided in this title.
- (3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:
  - (a) after consultation with the commissioner's test administrator; and
  - (b) subject to Subsection (4).
- (4)
  - (a) The commission may make a rule under this title only:
    - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
    - (ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and
    - (iii) if at the time the commission files its proposed rule and rule analysis with the Office of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.
  - (b) The commission may not make a rule regarding adjudicative procedures.
  - (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.
- (5)

- (a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.
- (b) The information required to be reported under this Subsection (5):
  - (i) may not identify a person; and
  - (ii) shall include:
    - (A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately proceeding the report;
    - (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
    - (C) for each complaint described in Subsection (5)(b)(ii)(A):
      - (I) any action taken by the commissioner with regard to the complaint; and
      - (II) the time-period beginning the day on which a complaint is made and ending the day on which the commissioner determines it will take no further action with regard to the complaint.

Amended by Chapter 193, 2016 General Session

**31A-2-405 Dual licensing.**

- (1) A dual licensed title licensee may provide a title insurance product or service under this title only if before providing that title insurance product or service the dual licensed title licensee obtains approval as provided in this section.
- (2)
  - (a) Except as provided in Subsection (3), a dual licensed title licensee shall obtain approval from the commissioner by filing under penalty of perjury with the department:
    - (i) a statement that includes:
      - (A) a description of the title insurance product or service to be provided;
      - (B) the names of the principals anticipated to be involved in the provision or receipt of the title insurance product or service;
      - (C) a legal description of the property to be involved in the provision or receipt of the title insurance product or service;
      - (D) whether or not the dual licensed title licensee received any consideration from a person described in Subsection (2)(a)(i)(B) within 18 months prior to the day on which the dual licensed title licensee files the statement; and
      - (E) any other information the commission requires by rule made in accordance with this section and Section 31A-2-404; and
    - (ii) the fee applicable under Section 31A-3-103.
  - (b) The commissioner shall approve the provision of a title insurance product or service under this section if the commissioner finds that the dual licensed title licensee:
    - (i) completed the filing required by Subsection (2)(a);
    - (ii) is acting in good faith; and
    - (iii) has not received consideration from a person described in Subsection (2)(a)(i)(B) within the 18-month period described in Subsection (2)(a)(i)(D).
  - (c) If the commissioner does not deny approval under this section, the commissioner is considered to have approved the provision of the title insurance product or service the earlier of:
    - (i) the day on which the commissioner issues the commissioner's approval in writing; or
    - (ii) 15 days after the day on which the dual licensed title licensee completes the filing under Subsection (2)(a).

- (3) Notwithstanding Subsection (2), a dual licensed title licensee may obtain approval from the chair of the commission if:
  - (a) the dual licensed title licensee completes the filing under Subsection (2)(a);
  - (b) the dual licensed title licensee establishes a need for expedited approval; and
  - (c) the chair of the commission issues approval in writing after making the findings described in Subsection (2)(b).
- (4) The commissioner shall revoke the license under this title of a dual licensed title licensee if the dual licensed title licensee:
  - (a) provides a title insurance product or service without the approval required by this section; or
  - (b) knowingly provides false or misleading information in the statement required by Subsection (2).
- (5) The commission may make rules, subject to Section 31A-2-404, to implement the filing requirements under Subsection (2), including the definition of terms.

Enacted by Chapter 325, 2007 General Session