

TITLE INSURANCE AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas Hatch

AN ACT RELATING TO INSURANCE; PERMITTING INSURANCE COMMISSIONER TO ASSESS TITLE INSURERS TO PAY FOR COSTS RELATED TO REGULATION OF TITLE INSURANCE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A REPEAL DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

31A-23-315, Utah Code Annotated 1953

63-55b-3101, Utah Code Annotated 1953

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

Section 1. Section **31A-23-315** is enacted to read:

31A-23-315. Assessment on title insurers.

(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 as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, any contract or policy of title insurance;

(ii) 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) Beginning on July 1, 1998, the insurance commissioner may assess each title insurer and each title insurance agency an annual assessment determined in accordance with this Subsection (2) to be used for the purposes described in Subsection (3).

(b) A title insurance agency shall be assessed \$150 for each county in which the title insurance agency maintains an office.

(c) A title insurer shall be assessed:

(i) \$150 for each county in which the title insurer maintains an office; and

(ii) an amount calculated by:

(A) aggregating the assessments imposed on title insurance agencies under Subsection (2)(b) and on title insurers under Subsection (2)(c)(i);

(B) subtracting the amount determined under Subsection (2)(c)(i)(A) from the total costs and expenses determined under Subsection (2)(d); and

(C) multiplying:

(I) the amount calculated under Subsection (2)(c)(ii)(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 in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department 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 \$50,000 annually.

(3) (a) All money received by the state under this section shall be deposited in the General Fund as a dedicated credit of the department.

(b) The money may be expended by the department only to pay for any cost or expense

incurred by the department in the administration, investigation, and enforcement of the provisions of Title 31A, Chapter 23, Parts III and IV, related to the marketing of title insurance.

(4) The assessment imposed by this section shall be in addition to any premium assessment imposed under Subsection 59-9-101(3).

Section 2. Section **63-55b-3101** is enacted to read:

63-55b-3101. Repeal date.

Section 31A-23-315 is repealed July 1, 2001.

Section 3. **Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.