

1 **TITLE INSURANCE AMENDMENTS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Thomas Hatch**

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

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

10 ENACTS:

11 **59-9-107**, Utah Code Annotated 1953

12 **63-55b-5901**, Utah Code Annotated 1953

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

14 Section 1. Section **59-9-107** is enacted to read:

15 **59-9-107. Taxation of title insurers.**

16 (1) For purposes of this section:

17 (a) "Title insurer" means a person:

18 (i) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or
19 surety, any contract or policy of title insurance;

20 (ii) transacting or proposing to transact any phase of title insurance, including:

21 (A) soliciting;

22 (B) negotiating preliminary to execution;

23 (C) executing of a contract of title insurance;

24 (D) insuring; and

25 (E) transacting matters subsequent to the execution of the contract and arising out of the
26 contract.

27 (b) "Premium" is as defined in Subsection 59-9-101(3).

1 (c) "Utah risks" means insuring, guaranteeing, or indemnifying with regard to real or
2 personal property located in Utah, an owner of real or personal property, the holders of liens or
3 encumbrances on that property, or others interested in the property against loss or damage suffered
4 by reason of:

5 (i) liens or encumbrances upon, defects in, or the unmarketability of the title to the
6 property; or

7 (ii) invalidity or unenforceability of any liens or encumbrances on the property.

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

11 (b) The assessment described in Subsection (2)(a) shall be calculated by multiplying:

12 (i) the percentage of total premiums for title insurance on Utah risks that are premiums of
13 the title insurer; and

14 (ii) the total of costs and expenses determined by the department under Subsection (2)(c).

15 (c) Notwithstanding Section 31A-3-103 and in accordance with Title 63, Chapter 46a,
16 Utah Administrative Rulemaking Act, the department by rule shall establish the amount of costs
17 and expenses described under Subsection (3) that will be covered by the assessment.

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

20 (b) The money may be expended by the Insurance Department only to pay for any cost or
21 expense incurred by the Insurance Department in the administration, investigation, and
22 enforcement of the provisions of Title 31A, Chapter 23, Parts III and IV, related to the marketing
23 of title insurance.

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

26 Section 2. Section **63-55b-5901** is enacted to read:

27 **63-55b-5901. Repeal date.**

28 Section 59-9-107 is repealed July 1, 2001.

29 Section 3. **Effective date.**

30 If approved by two-thirds of all the members elected to each house, this act takes effect
31 upon approval by the governor, or the day following the constitutional time limit of Utah

- 1 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
- 2 date of veto override.

Legislative Review Note
as of 1-14-98 1:12 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel