

1st Sub. H.B. 200
INSURANCE LAW REVISIONS

Senator **L. Alma Mansell** proposes the following amendments:

1. Page 5, Line 139 through Page 8, Line 214:

- 139 31A-23a-204. Special requirements for title insurance producers.
140 Title insurance producers shall be licensed in accordance with this chapter, with the
141 additional requirements listed in this section.
142 ~~{(1) Every title insurance agency newly licensed, merged, or acquired after July 1, 2005,~~
143 ~~shall be owned or managed by a full-time title producer licensed with search and escrow lines~~
144 ~~of authority for at least three of the four years immediately preceding the date of application.}~~
145 {+} (1) {+} ~~{(2)}~~ (a) Every title insurance agency or producer appointed by an insurer
shall
146 maintain:
147 (i) a fidelity bond;
148 (ii) a professional liability insurance policy; or
149 (iii) a financial protection:
150 (A) equivalent to that described in Subsection {+} (1) {+} ~~{(2)}~~ (a)(i) or (ii); and
151 (B) that the commissioner considers adequate.
152 (b) The bond or insurance required by this Subsection {+} (1) {+} ~~{(2)}~~ :
153 (i) shall be supplied under a contract approved by the commissioner to provide
154 protection against the improper performance of any service in conjunction with the issuance of
155 a contract or policy of title insurance; and
156 (ii) be in a face amount no less than \$50,000.
157 (c) The commissioner may by rule exempt title insurance producers from the
158 requirements of this Subsection {+} (1) {+} ~~{(2)}~~ upon a finding that, and only so long as, the
required
159 policy or bond is generally unavailable at reasonable rates.
160 {+} (2) {+} ~~{(3)}~~ (a) (i) Every title insurance agency or producer appointed by an insurer
shall
161 maintain a reserve fund.
162 (ii) The reserve fund required by this Subsection {+} (2) {+} ~~{(3)}~~ shall be:
163 (A) (I) composed of assets approved by the commissioner;
164 (II) maintained as a separate trust account; and
165 (III) charged as a reserve liability of the title insurance producer in determining the
166 producer's financial condition; and

167 (B) accumulated by segregating 1% of all gross income received from the title
168 insurance business.

169 (iii) The reserve fund shall contain the accumulated assets for the immediately
170 preceding ten years as defined in Subsection ~~{+}~~ (2) ~~{+}~~ ~~{-3}~~ (a)(ii).

171 (iv) That portion of the assets held in the reserve fund over ten years may be:
172 (A) withdrawn from the reserve fund; and
173 (B) restored to the income of the title insurance producer.

174 (v) The title insurance producer may withdraw interest from the reserve fund related to
175 the principal amount as it accrues.

176 (b) (i) A disbursement may not be made from the reserve fund except as provided in
177 Subsection ~~{+}~~ (2) ~~{+}~~ ~~{-3}~~ (a) unless the title insurance producer ceases doing business as a
result of:

178 (A) sale of assets;
179 (B) merger of the producer with another producer;
180 (C) termination of the producer's license;
181 (D) insolvency; or
182 (E) any cessation of business by the producer.

183 (ii) Any disbursements from the reserve fund may be made only to settle claims arising
184 from the improper performance of the title insurance producer in providing services defined in
185 Section 31A-23a-406.

186 (iii) The commissioner shall be notified ten days before any disbursements from the
187 reserve fund.

188 (iv) The notice required by this Subsection ~~{+}~~ (2) ~~{+}~~ ~~{-3}~~ (b) shall contain:
189 (A) the amount of claim;
190 (B) the nature of the claim; and
191 (C) the name of the payee.

192 (c) (i) The reserve fund shall be maintained by the title insurance producer or the title
193 insurance producer's representative for a period of two years after the producer ceases doing
194 business.

195 (ii) Any assets remaining in the reserve fund at the end of the two years specified in
196 Subsection ~~{+}~~ (2) ~~{+}~~ ~~{-3}~~ (c)(i) may be withdrawn and restored to the former producer.
197 ~~{+}~~ (3) ~~{+}~~ ~~{-4}~~ Any examination for licensure shall include questions regarding the
search
198 and examination of title to real property.

199 ~~{+}~~ (4) ~~{+}~~ ~~{-5}~~ A title insurance producer may not perform the functions of escrow
unless the
200 producer has been examined on the fiduciary duties and procedures involved in those
201 functions.

202 ~~{+}~~ (5) ~~{+}~~ ~~{-6}~~ The commissioner shall adopt rules outlining an examination that will

satisfy

203 this section.

204 {+} (6) {+} ~~{(7)}~~ A license may be issued to a title insurance producer who has qualified:

205 (a) to perform only searches and examinations of title as specified in Subsection {+} (3) {+}

206 ~~{(4)}~~ ;

207 (b) to handle only escrow arrangements as specified in Subsection {+} (4) {+} ~~{(5)}~~ ; or

208 (c) to act as a title marketing representative.

209 {+} (7) {+} ~~{(8)}~~ A person licensed to practice law in Utah is exempt from the
requirements of

210 Subsections {+} (1) {+} ~~{(2)}~~ and {+} (2) {+} ~~{(3)}~~ if that person issues 12 or less
policies in any 12-month

211 period.

212 {+} (8) {+} ~~{(9)}~~ A person licensed to practice law in Utah, whether exempt under
Subsection

213 {+} (7) {+} ~~{(6)}~~ or not, shall maintain a trust account separate from a law firm trust account for
all title

214 and real estate escrow transactions.