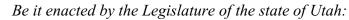
Representative R. Curt Webb proposes the following substitute bill:

1	TITLE INSURANCE AMENDMENTS
2	2016 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: R. Curt Webb
5	Senate Sponsor:
6 7	LONG TITLE
8	General Description:
	•
9	This bill modifies the Insurance Code to address title insurance.
10	Highlighted Provisions:
11	This bill:
12	 addresses closing or settlement protection;
13	 addresses the liability of title insurers and title insurance producers under certain
14	circumstances; and
15	 makes technical changes.
16	Money Appropriated in this Bill:
17	None
18	Other Special Clauses:
19	None
20	Utah Code Sections Affected:
21	AMENDS:
22	31A-4-117, as enacted by Laws of Utah 2013, Chapter 319
23	31A-23a-407, as last amended by Laws of Utah 2013, Chapter 319
24	
25	Be it enacted by the Legislature of the state of Utah:





Section 1. Section 31A-4-117 is amended to read:

31A-4-117. Closing or settlement protection.

- (1) A title insurer may issue closing or settlement protection in the form of a closing protection letter filed with the department to a person who is a party to a transaction in which a title insurance policy is issued.
- (2) Closing or settlement protection may indemnify a person who is a party to a transaction referred to in Subsection (1) against loss that the title insurer approves for the closing or settlement protection, under the terms and conditions of the closing protection letter issued by the title insurer, because of one or more of the following acts of a title insurance policy issuing individual title insurance producer or agency title insurance producer or other settlement service provider:
- (a) theft or misappropriation of settlement funds in connection with a transaction in which one or more title insurance policies are issued by or on behalf of the title insurer issuing the closing or settlement protection, but only to the extent that the theft or misappropriation relates to the status of the title to that interest in land or to the validity, enforceability, and priority of the lien of the mortgage on that interest in land; or
- (b) failure to comply with the written closing instructions when agreed to by the settlement agent, title agent, or employee of the title insurer, but only to the extent that the failure to follow the written closing instructions relates to the status of the title to that interest in land or the validity, enforceability, and priority of the lien of the mortgage on that interest in land.
- (3) A title insurer may not make the fee charged by a title insurer for each party receiving closing or settlement protection coverage subject to any agreement requiring a division of fees or premiums collected on behalf of the title insurer. The fee charged for a closing or settlement coverage protection letter will be filed by the title insurer with the department 30 days before use.
- (4) A title insurer may not provide any other protection that purports to contractually indemnify against improper acts or omissions of a person who is a party to a transaction referred to in Subsection (1) with regard to settlement or closing services.
- (5) Subject to Section 31A-23a-407, a title insurer that is represented by an individual title insurance producer or an agency title insurance producer is liable for the acts or omissions

57	of the individual title insurance producer or agency title insurance producer for closing or
58	settlement only to the extent of the liability undertaken in the closing protection letter
59	according to terms and provisions in the closing protection letter issued pursuant to this
60	section. The liability to the title insurer, if any, of the individual title insurance producer or
61	agency title insurance producer that issues the title insurance policy for acts or omissions of the
62	individual title insurance producer or agency title insurance producer may not be limited or
63	modified because the title insurer has provided closing protection to one or more parties to a
64	real property transaction, escrow, settlement, or closing.
65	Section 2. Section 31A-23a-407 is amended to read:
66	31A-23a-407. Liability for acts of title insurance producers.
67	[Any title company, represented by one or more]
68	(1) Subject to the other provisions in this section, a title insurer that appoints an
69	individual title insurance [producers appointed by an insurer] producer or an agency title
70	insurance [producers, is directly and primarily] producer is liable to [others dealing with the
71	individual title insurance producers or agency title insurance producers] a buyer, seller,
72	borrower, lender, or third party that deposits money with the individual title insurance producer
73	or agency title insurance producer for the receipt and disbursement of [funds] money deposited
74	[in escrows] with the individual title insurance [producers appointed by an insurer] producer or
75	agency title insurance [producers in all those transactions where] producer:
76	(a) for a transaction when a commitment [or binder] for [or] a policy [or contract] of
77	title insurance of that title insurer [has been] is ordered, [or a preliminary report of the title
78	insurer has been] issued, or distributed[. This] or a title insurance policy of that title insurer is
79	issued, except that once a title insurer is named in an issued commitment only that title insurer
80	is liable as a title insurer under this section; and
81	(b) only if:
82	(i) the individual title insurance producer or agency title insurance producer no longer
83	exists; or
84	(ii) the person, after obtaining a money judgment against the individual title insurance
85	producer or agency title insurance producer, cannot obtain satisfaction of the judgment within
86	six months of entry of the judgment from:
87	(A) the individual title insurance producer or agency title insurance producer; and

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88 (B) when uncollectible from the individual title insurance producer or agency title 89 insurance producer, the Title Insurance Recovery, Education, and Research Fund in accordance 90 with Chapter 41, Title Insurance Recovery, Education, and Research Fund Act. 91 (2) The liability of a title insurer under Subsection (1) and the liability of an individual 92 title insurance producer or agency title insurance producer for the receipt and disbursement of money deposited with the individual title insurance producer or agency title insurance producer 93 is limited to the amount of money received and disbursed, not to exceed the amount of 94 95 proposed insurance set forth in the commitment or title insurance policy described in 96 Subsection (1)(a) plus 10% of the amount of the proposed insurance. 97 (3) The liability described in Subsection (1) does not modify, mitigate, impair, or affect 98 the contractual obligations between [the] an individual title insurance [producers] producer or 99 agency title insurance [producers] producer and the title insurer. 100 (4) The liability of a title insurer with respect to the condition of title to the real property that is the subject of a title insurance policy or a title insurance commitment for a title 101 insurance policy is limited to the terms, conditions, and stipulations contained in the title 102 103 insurance policy or title commitment.

(5) A person may not commence an action against a title insurer under this section

unless the person has exhausted the remedies described in Subsection (1)(b).