

Representative Kera Birkeland proposes the following substitute bill:

INSURANCE DEPARTMENT COMPLAINT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill broadens the Insurance Department's enforcement authority.

Highlighted Provisions:

This bill:

▶ authorizes the Insurance Department to take enforcement action against a title insurance producer if the title insurance producer does not have an appointment from a title insurer.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-23a-204, as last amended by Laws of Utah 2015, Chapter 330

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

Section 1. Section **31A-23a-204** is amended to read:

31A-23a-204. Special requirements for title insurance producers and agencies.



26 An individual title insurance producer or agency title insurance producer shall be
27 licensed in accordance with this chapter, with the additional requirements listed in this section.

28 (1) (a) A person that receives a new license under this title as an agency title insurance
29 producer shall at the time of licensure be owned or managed by at least one individual who is
30 licensed for at least three of the five years immediately preceding the date on which the agency
31 title insurance producer applies for a license with both:

32 (i) a title examination line of authority; and

33 (ii) an escrow line of authority.

34 (b) An agency title insurance producer subject to Subsection (1)(a) may comply with
35 Subsection (1)(a) by having the agency title insurance producer owned or managed by:

36 (i) one or more individuals who are licensed with the title examination line of authority
37 for the time period provided in Subsection (1)(a); and

38 (ii) one or more individuals who are licensed with the escrow line of authority for the
39 time period provided in Subsection (1)(a).

40 (c) A person licensed as an agency title insurance producer shall at all times during the
41 term of licensure be owned or managed by at least one individual who is licensed for at least
42 three years within the preceding five-year period with both:

43 (i) a title examination line of authority; and

44 (ii) an escrow line of authority.

45 (d) The Title and Escrow Commission may by rule, subject to Section [31A-2-404](#),
46 exempt an attorney with real estate experience from the experience requirements in Subsection
47 (1)(a).

48 (e) An individual who satisfies the requirements of this Subsection (1) is known as a
49 "qualifying licensee." At any given time, an individual may be a qualifying licensee for not
50 more than two agency title insurance producers.

51 (2) (a) An individual title insurance producer or agency title insurance producer
52 appointed by an insurer shall maintain:

53 (i) a fidelity bond;

54 (ii) a professional liability insurance policy; or

55 (iii) a financial protection:

56 (A) equivalent to that described in Subsection (2)(a)(i) or (ii); and

57 (B) that the commissioner considers adequate.

58 (b) The bond, insurance, or financial protection required by this Subsection (2):

59 (i) shall be supplied under a contract approved by the commissioner to provide
60 protection against the improper performance of any service in conjunction with the issuance of
61 a contract or policy of title insurance; and

62 (ii) be in a face amount no less than \$250,000.

63 (c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404,
64 exempt individual title insurance producer or agency title insurance producers from the
65 requirements of this Subsection (2) upon a finding that, and only so long as, the required policy
66 or bond is generally unavailable at reasonable rates.

67 (3) An individual title insurance producer or agency title insurance producer appointed
68 by an insurer may maintain a reserve fund to the extent money was deposited before July 1,
69 2008, and not withdrawn to the income of the individual title insurance producer or agency title
70 insurance producer.

71 (4) An examination for licensure shall include questions regarding the examination of
72 title to real property.

73 (5) An individual title insurance producer may not perform the functions of escrow
74 unless the individual title insurance producer has been examined on the fiduciary duties and
75 procedures involved in those functions.

76 (6) The Title and Escrow Commission may adopt rules, establishing an examination
77 for a license that will satisfy this section, subject to Section 31A-2-404, and after consulting
78 with the commissioner's test administrator.

79 (7) A license may be issued to an individual title insurance producer or agency title
80 insurance producer who has qualified:

81 (a) to perform only examinations of title as specified in Subsection (4);

82 (b) to handle only escrow arrangements as specified in Subsection (5); or

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

84 (8) (a) A person licensed to practice law in Utah is exempt from the requirements of
85 Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

86 (b) In determining the number of policies issued by a person licensed to practice law in
87 Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a

88 policy to more than one party to the same closing, the person is considered to have issued only
89 one policy.

90 (9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or
91 not, shall maintain a trust account separate from a law firm trust account for all title and real
92 estate escrow transactions.

93 (10) The department may, in accordance with Title 63G, Chapter 4, Administrative
94 Procedures Act, take any of the following actions against a title insurance producer if the title
95 insurance producer does not have an appointment from a title insurer as described in Section
96 31A-23a-115:

97 (a) suspend or revoke the title insurance producer's license;

98 (b) freeze a bank account associated with the title insurance producer's business;

99 (c) subpoena the title insurance producer's records;

100 (d) enjoin the title producer's business operations; or

101 (e) post, at the title producer's business location, a notice of an action listed in

102 Subsections (10)(a) through (10)(d).

103 Section 2. **Effective date.**

104 This bill takes effect on May 1, 2024.