

# HB0399S01 compared with HB0399

~~{deleted text}~~ shows text that was in HB0399 but was deleted in HB0399S01.

inserted text shows text that was not in HB0399 but was inserted into HB0399S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

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### LONG TITLE

~~{Committee Note:~~

~~— The Administrative Rules Review and General Oversight Committee recommended this bill.~~

~~— Legislative Vote: 8 voting for 0 voting against 2 absent~~

~~}General Description:~~

This bill ~~{gives broader enforcement authority to}~~ broadens the Insurance ~~{Department}~~ Department's enforcement authority.

**Highlighted Provisions:**

This bill:

- ▶ authorizes the Insurance Department to ~~{freeze the trust account of agency producers with no active underwriter appointment}~~ take enforcement action against a title insurance producer if the title insurance producer does not have an

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appointment from a title insurer.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{31A-23a-115}~~31A-23a-204, as last amended by Laws of Utah ~~{2017}~~2015, Chapter ~~{168}~~330

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

Section 1. Section ~~{31A-23a-115}~~31A-23a-204 is amended to read:

~~{31A-23a-115}~~31A-23a-204. ~~{Appointment of individual and agency}~~Special requirements for title insurance ~~{producer, limited line producer, or managing general agent -- Reports and lists:~~

~~—— (1) (a) An insurer shall appoint an individual or agency with whom it has a contract as an}~~producers and agencies.

An individual title insurance producer ~~{, limited line producer, or managing general agent to act on the insurer's behalf in order for the licensee to do business for the insurer in this state:~~

~~—— (b) An insurer shall report to the commissioner, at intervals and in the form the commissioner establishes by rule made}~~ or agency title insurance producer shall be licensed in accordance with ~~{Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~

~~—— (i) a new appointment; and~~

~~—— (ii) a termination of appointment.~~

~~—— (c) The Insurance Department may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, freeze the trust account of a person that fails to}~~ this chapter, with the additional requirements listed in this section.

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

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title insurance producer applies for a license with both:

(i) a title examination line of authority; and

(ii) an escrow line of authority.

(b) An agency title insurance producer subject to Subsection (1)(a) may comply with Subsection (1)(a) ~~for (b).~~

~~— (2) An~~ by having the agency title insurance producer owned or managed by:

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

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

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

(i) a title examination line of authority; and

(ii) an escrow line of authority.

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

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

(2) (a) An individual title insurance producer or agency title insurance producer appointed by an insurer shall ~~{notify a producer that the producer's appointment is terminated by the insurer and of the reason for termination at an interval and in the form the commissioner establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~— (3) (a) (i) An insurer shall report to the commissioner the cause of termination of an appointment if:~~

~~— (A) the reason for termination is a reason~~ maintain:

(i) a fidelity bond;

(ii) a professional liability insurance policy; or

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(iii) a financial protection:

(A) equivalent to that described in Subsection ~~{31A-23a-111(5)(b); or~~

~~—— (B) the insurer has knowledge that the individual or agency licensee is found to have engaged in an activity described in Subsection 31A-23a-111(5)(b) by:~~

~~—— (I) a court;~~

~~—— (II) a government body; or~~

~~—— (III) a self-regulatory organization, which} (2)(a)(i) or (ii); and~~

(B) that the commissioner ~~{may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~—— (ii) The information provided to the commissioner under} considers adequate.~~

(b) The bond, insurance, or financial protection required by this Subsection ~~( {3}) is a private record under Title 63G, Chapter 2, Government Records Access and Management Act.~~

~~—— (b) An insurer is immune from civil action, civil penalty, or damages if the insurer complies in good faith with this Subsection (3) in reporting to} 2):~~

(i) shall be supplied under a contract approved by the commissioner ~~{the cause of termination of an appointment.~~

~~—— (c) Notwithstanding any other provision in this section, an insurer is not immune from any action or resulting penalty imposed on the reporting insurer as a result of proceedings brought by or on behalf of the department if the action is based on evidence other than the report submitted in compliance with} to provide protection against the improper performance of any service in conjunction with the issuance of a contract or policy of title insurance; and~~

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

(c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt individual title insurance producer or agency title insurance producers from the requirements of this Subsection ~~( {3}).~~

~~—— (4) If an insurer appoints an agency, the insurer need not appoint, report, or pay appointment reporting fees for an individual designated on the agency's license under Section 31A-23a-302.~~

~~—— (5) If an insurer has a contract with or lists a licensee in a report submitted} 2) upon a finding that, and only so long as, the required policy or bond is generally unavailable at reasonable rates.~~

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

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

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

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

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

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

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

(c) to act as a title marketing representative.

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

(b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.

(9) A person licensed to practice law in Utah, whether exempt under Subsection (3); there is a rebuttable presumption that in placing a risk with the insurer the contracted or appointed licensee or any of the licensee's licensed employees act on behalf of the insurer.

(8) or not, shall maintain a trust account separate from a law firm trust account for all title and real estate escrow transactions.

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

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### 31A-23a-115:

- (a) suspend or revoke the title insurance producer's license;
- (b) freeze a bank account associated with the title insurance producer's business;
- (c) subpoena the title insurance producer's records;
- (d) enjoin the title producer's business operations; or
- (e) post, at the title producer's business location, a notice of an action listed in

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

Section 2. **Effective date.**

This bill takes effect on May 1, 2024.