

Title and Escrow Commission 2024 Report

Prepared and Submitted by the Title and Escrow Commission pursuant to Utah Code Section 67-1-2.5(5)

I. The Purpose of the Title and Escrow Commission

The Title and Escrow Commission (TEC) serves as a liaison between the Utah Insurance Department (UID) and the title industry. Its role includes:

- **Rule Making:** The TEC makes rules related to title insurance matters, including rules related to rating standards and rating methods for a title licensee, licensing for a title licensee, the licensing requirements, examination for a license, continuing education requirements and standards for conduct.
- **Licensing:** The TEC reviews and votes to issue concurrence with the UID's monthly licensing report for the issuance and renewal of agency and individual licenses. In addition, the TEC participates in the annual license testing evaluation conducted by the commissioner's test administrator.
- **Fees and Assessments:** The TEC establishes, with the concurrence of the Commissioner of the UID (Commissioner), the fees imposed on a title licensee and after consulting with the Commissioner, the assessment on a title insurer.
- **Education:** The TEC approves, with the concurrence of the Commissioner, continuing education programs.
- **Addressing Industry Concerns:** The TEC advises the Commissioner on critical matters affecting the title industry and requests the Commissioner to direct the UID's investigative resources to investigate and enforce those matters.
- **Ensuring Compliance:** The TEC, in conjunction with the UID, works to uphold ethical standards and compliance with state statutes and related rules within the industry.

II. **Actions Taken by the Title and Escrow Commission Between Aug. 1, 2022, and July 1, 2024**

The TEC meets on a monthly schedule and meets with the Real Estate Commission (REC) on a biannual basis. Actions taken together with the REC include (1) fraud awareness, specifically wire fraud and vacant land fraud, and (2) identifying ways to educate consumers. Below is a list of actions taken during TEC meetings between August 2022 and July 2024. The list does not include actions such as approving minutes, concurrence with UID reports, or scheduling meetings.

The TEC took the following actions during its meetings:

- **August 2022:**
 - Voted to retain R592-5
 - Voted to move forward with proposed changes to R592-18

- **October 2022:**
 - Voted to adopt a resolution regarding an electronic vote.
 - Voted to repeal the TEC bylaws which are already covered by statute.

- **November 2022:**
 - Voted to concur with the action to revoke the license of William Justin Fry.
 - Voted to concur with the action to fine First Integrity Title Insurance Agency.

- **February 2023:**
 - Voted to concur with the action and forfeiture on Jamie Lynn Hudson.

- **March 2023:**
 - Voted to adopt new goals for 2023.

- **June 2023:**
 - Voted to repeal R592-15.
 - Voted to continue R592-10.
 - Voted to form a subcommittee to discuss negotiated changes to R592-6.

- **July 2023:**
 - Voted to elect chair and vice chair.
 - Voted to proceed with the subcommittee for R592-6.

- **September 2023:**
 - Voted to concur with the department's action to revoke the license of Kyle Dean Johnson.
- **January 2024:**
 - Voted on a provision of the proposed rule R592-6.
 - Voted to adopt the proposed rule R592-6.
- **February 2024:**
 - Voted to object to the agency license for Closed PacWest, LLC.
 - Voted to approve Blake Heiner's license as amended.
- **March 2024:**
 - Voted to ask the UID to make a legislative change to require three years of Utah experience for the qualifying license.
- **May 2024:**
 - Voted to retain R592-6, R592-7, R592-8 and R592-9.

III. Recommendation on Statutory, Rule, or Other Changes to Improve Effectiveness

A statutory change would make the Title and Escrow Commission more effective, more empowered to protect the consumer, and would reduce the burdens on the UID. The following changes are recommended:

- Re-insertion of former Utah Code Ann. Section 31a-2-404(2)(e), (g) and (h)
 - Conduct an administrative hearing not delegated by the commission to an administrative law judge related to the licensing of an applicant, conduct of a title licensee or approval of a continuing education program required by Section 31A-23a-202.
 - With the concurrence of the commissioner, impose a penalty under this title related to title insurance matters.
 - Advise the commissioner on the administration and enforcement of any matter.

These recommendations are made consistent with the creating principal that the TEC's authority "mirror" the REC's authority.

The legislative history indicates these provisions were removed in 2015 as part of a larger licensing scheme. These changes to the title and escrow commission's statutory function and authority were inconsistent with the original creating principal and were introduced as an overreaction to the licensing issue. These provisions should now be restored.

This proposed statutory change is supported by the Utah Land Title Association.

This proposed statutory change is not supported by the Utah Insurance Department.

IV. Should the Title and Escrow Commission Continue to Exist?

Yes. The TEC is an essential resource to the UID, the REC, and Consumers regarding real estate closings and title insurance which is provided on almost all real estate transactions in the state of Utah. The TEC serves an important role in the communication between industry, the public and the government. In fact, the statutorily imposed composition of the TEC's members is reflective of its legislative mandate to serve a cross section of title insurance industry professionals and the public. The TEC provides current information gleaned from every region of Utah and brings matters related to real estate fraud and other industry specific issues to the attention of the UID as together we work to protect consumers across the State.

The TEC's role is also significant because Title Insurance is different from other lines of property and casualty insurance. The TEC's expertise in title insurance related matters assists the UID, REC, and county recorders with enacting and/or promoting laws, rules, bulletins, and public notices for the good of the consumer. For example, title insurance is a onetime charge versus monthly premiums and provides coverage to consumers and their heirs as long as the consumer owns the property. Title insurance provides coverage for matters affecting title to real property generally up to the date of coverage, and typically when the consumer acquires the property, unlike other property and casualty insurance products that provide coverage and charge premiums for future occurrences. As a result of the uniqueness of title insurance among other insurance products, the TEC has been charged to assist the UID on statutory and rule making matters. Specifically, from August 2022 through July 2024, the TEC has assisted consultatively with rules and legislation related to the alleged fraudulent activity of Synergy Title and its owner Ryan Goodrich; rules and legislation related to escrow fees charged as part of a real estate closing; and rules related to the unfair inducement of title insurance business.

In addition to consulting, the TEC has been working alongside the REC to better educate consumers. Fraud continues to plague the industry. The TEC has promoted legislation

and public education to better inform consumers and help prevent real estate related fraud.

Lastly, the TEC has historically remained non-partisan in all approaches and is not considered a political body. The benefit and protection of the public always has and always will remain the focus of commission members. The role the TEC plays in the process of reviewing laws and rules affecting the practices surrounding the purchase of Real Estate and the issuance of Title Policies is paramount. The TEC performs the crucial roles of advocate, liaison, intermediary and gatekeeper for title insurance related matters impacting the public. Having a combination of knowledgeable industry and non-industry members with an avenue to make recommended changes to the UID as the Real Estate market and practices evolve over time, is vital to good governance and oversight by the State of Utah. This body has the granular knowledge and practical experience the UID and Utah legislators rely on when considering rule or statutory changes or rule creation or new legislation. For the good of the individual consumer and for the health and vitality of an industry that ultimately impacts most every Utahn, we strongly recommend the TEC's continued existence.