



D. KENT MICHIE
Insurance Commissioner
Utah Insurance Department

JON M. HUNTSMAN, JR.
Governor

BULLETIN 2007-1

To: All Title Insurance Insurers, Agencies and Producers

**From: D. Kent Michie, Utah Insurance Commissioner,
and the Title and Escrow Commission**

Subject: Prohibited Escrow Settlement Closing Transactions

Due to the large number of "land flip" transactions and the use by real estate agents of the Simultaneous Closing Addendum to Real Estate Purchase Contract (a copy of which is attached), and due to the fact that "flipping" real estate often involves fraud, the Utah Insurance Commissioner and the Title and Escrow Commission have determined the following structure to be the only permitted method of acting as escrow wherein the same parcel of property is purchased and then immediately sold.

The transactions effected by this bulletin are those transactions in which Seller "A" contracts with Buyer "B" to sell a parcel of property. Buyer "B" then contracts with Buyer "C" to sell the same parcel of property. Buyer "B" anticipates acquiring the parcel and selling the parcel at or near the same time.

The transaction between Seller "A" and Buyer "B" must close independently from the transaction between Buyer "B" and Buyer "C." The funds deposited by Buyer "C" may not be used to fund the closing between Seller "A" and Buyer "B." Buyer "B" must provide funds independent of the funds generated by Buyer "C."

A policy of title insurance must be issued in the Seller "A" to Buyer "B" transaction and in the Buyer "B" to Buyer "C" transaction. Each real estate transaction must stand on its own. Buyer "B" must close with Buyer "B's" own good funds and record so that Buyer "B" is in title prior to the second transaction closing and recording.

The above structure insures compliance with 31A-23a-406 and R590-153-5.

31A-23a-406. Title insurance producer's business.

(1) A title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the title insurance producer is licensed with:

- (i) the title line of authority; and
- (ii) the escrow subline of authority;
- (b) the title insurance producer is appointed by a title insurer authorized to do business in the state;
- (c) one or more of the following is to be issued as part of the transaction:
 - (i) an owner's policy of title insurance; or
 - (ii) a lender's policy of title insurance;

(5) (a) A check from the trust account described in Subsection (1)(d) may not be drawn, executed, or dated, or funds otherwise disbursed unless the segregated escrow account from which funds are to be disbursed contains a sufficient credit balance consisting of collected or cleared funds at the time the check is drawn, executed, or dated, or funds are otherwise disbursed.

(b) As used in this Subsection (5), funds are considered to be "collected or cleared," and may be disbursed as follows:

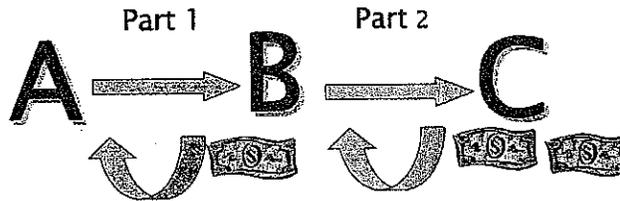
- (i) cash may be disbursed on the same day the cash is deposited;
 - (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;
 - (iii) the following may be disbursed on the day following the date of deposit:
 - (A) a cashier's check;
 - (B) a certified check;
 - (C) a teller's check;
 - (D) a U.S. Postal Service money order; and
 - (E) a check drawn on a Federal Reserve Bank or Federal Home Loan Bank; and
 - (iv) any other check or deposit may be disbursed:
 - (A) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Section 4001 et seq., as amended, and related regulations of the Federal Reserve System; or
 - (B) upon written notification from the financial institution to which the funds have been deposited, that final settlement has occurred on the deposited item.
- (c) Subject to Subsections (5)(a) and (b), any material change to a settlement statement made after the final closing documents are executed must be authorized or acknowledged by date and signature on each page of the settlement statement by the one or more persons affected by the change before disbursement of funds."

R590-153-5. Unfair Methods of Competition, Acts and Practices.

The commissioner finds that providing or offering to provide any of the following benefits by parties identified in Section R590-153-3 to any client, either directly or indirectly, except as specifically allowed in Section R590-153-6 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition in the business of title insurance prohibited under Section 31A-23a-402:

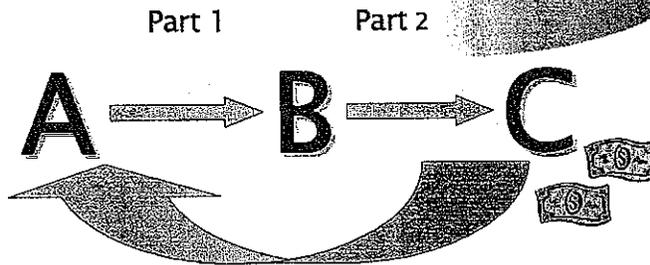
E. Deferring or waiving any payment for insurance or services otherwise due and payable, including "holding for resale."

LEGAL FLIPS



There is nothing wrong with buying
property to sell for a profit...
even in the short term.

ILLEGAL FLIPS / EQUITY SKIMMING



- There is a violation of the "good funds" (collected & cleared by bank) statute if you use proceeds from Buyer "C" to fund Seller "A".
- Buyer "B" is selling property to "C," which buyer "B" does not yet hold title to.

Dated this 30th day of January 2007.

D. KENT MICHIE
Utah Insurance Commissioner



**SIMULTANEOUS CLOSING ADDENDUM
TO
REAL ESTATE PURCHASE CONTRACT
(Buyer #1 DOES NOT Own the Property)**



THIS IS AN [] ADDENDUM [] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "2nd REPC") with an Offer Reference Date of _____, including all prior addenda and counteroffers, between _____, as Seller, and _____, as Buyer, regarding the Property located at: _____ (the "Property").
The following terms are hereby incorporated as part of the 2nd REPC:

1. ADDITIONAL SELLER DISCLOSURES. The above-referenced Seller (referred to below as Buyer #1) makes the following disclosures to the above-referenced Buyer (referred to below as Buyer #2):

1.1 Buyer #1 DOES NOT Own the Property. Buyer #1 advises Buyer #2 that Buyer #1 DOES NOT own the Property. Although Buyer #1 DOES NOT own the Property, Buyer #1 represents that Buyer #1 has entered into a separate Real Estate Purchase Contract (the 1st REPC) to purchase the Property from the current owner/developer of the Property (the "Owner/Developer"). Buyer #1 agrees to provide to Buyer #2 a copy of the 1st REPC as provided in Section 1.2(b) below.

1.2 Delivery of Additional Disclosure Documents. No later than the Seller Disclosure Deadline referenced in Section 24(a) of the 2nd REPC, Buyer #1 shall provide to Buyer #2 the following additional "Seller Disclosures": (a) a copy of all documents that have previously been provided to Buyer #1 as "Seller Disclosures" under Section 7 of the 1st REPC; (b) a copy of the 1st REPC (including all counteroffers, addenda and exhibits); (c) a copy of the Plans & Specifications for the Property (if this is new construction and construction has not started or is in progress); (d) a copy of all Change Orders, if any; (e) copies of any inspection reports, surveys, and studies regarding the Property that are in Buyer #1's possession; and (f) copies of all correspondence between Buyer #1 and the Owner/Developer relating to the Property.

2. SETTLEMENT DEADLINE. No later than three (3) days after Buyer #1 receives from the Owner/Developer written notice to close the transaction with the Owner/Developer ("Notice to Close"), Buyer #1 shall provide to Buyer #2 a copy of the Notice to Close. Except as provided in this Section 2 below, Buyer #2 agrees that the Settlement Deadline in the 2nd REPC shall be the later of the following dates: (a) the closing date required in the Notice to Close, or (b) fifteen (15) days after Buyer #2's receipt of the Notice to Close. In the event the closing of the transaction between Buyer #1 and the Owner/Developer is extended based on mutual written agreement of Buyer #1 and Buyer #2 as provided in Section 5.1 below, Buyer #1 and Buyer #2 agree that the Settlement Deadline referenced above, shall be extended to correspond with any extensions agreed to under the terms of the 1st REPC.

3. REPRESENTATIONS & WARRANTIES.

3.1 Subject to Acquiring the Property. Buyer #2 acknowledges that Buyer #1's obligations under the 2nd REPC are conditioned upon Buyer #1 and the Owner/Developer completing the purchase and sale of the Property as required under the terms of the 1st REPC. Buyer #1 acknowledges and agrees that Buyer #1 may not use any funds from the proposed transaction with Buyer #2 to fund the Closing between Buyer #1 and the Owner/Developer. Buyer #2 acknowledges and agrees that Buyer #1 makes no representations or warranties regarding the willingness or ability of the Owner/Developer to meet the Owner/Developer's obligations under the 1st REPC. The failure of the Owner/Developer to perform under the 1st REPC shall not give to Buyer #2 any rights against Buyer #1 for breach of contract, damages, or any other legal or equitable claims. Buyer #2's sole remedy for the Owner/Developer's failure to perform shall be to receive a refund of the Earnest Money Deposit.

3.2 Title to the Property. Subject to the terms of Section 3.1 above, Buyer #1 agrees to convey good and marketable title to Buyer #2 at Closing. Buyer #2 agrees to be responsible for: (a) any transfer fees due as a result of completion of this transaction; (b) property taxes, assessments, and homeowner's association dues levied against the Property from and after the date of Closing; and (c) utility and other services provided to the Property from and after the date of Closing.

3.3 No Warranties Regarding Physical Condition of Property. Buyer #2 acknowledges and agrees that Buyer #1 makes no representations or warranties of any kind or nature regarding the physical condition of the Property. To the extent any warranties available to Buyer #1 under the terms of the 1st REPC are assignable, Buyer #1 agrees to assign such warranties to Buyer #2 at Closing.

4. NON-ASSIGNABILITY. The 2nd REPC may not be assigned by Buyer #2 without the prior written consent of Buyer #1, which consent Buyer #1 may withhold in Buyer #1's sole discretion.

5. CHANGES DURING TRANSACTION & FURTHER CHANGE ORDERS.

5.1 No Changes Prior to Due Diligence Deadline. Buyer #1 agrees that from the date of Acceptance of the 2nd REPC until expiration of the Due Diligence Deadline, no changes to the 1st REPC shall be made, and no changes to the Plans & Specifications ("Change Orders") shall be requested or agreed to by Buyer #1, without the prior written consent of Buyer #2.

5.2 Changes After Due Diligence Deadline. If Buyer #2 does not cancel the 2nd REPC as provided in Section 8 of the 2nd REPC, then Buyer #1 and Buyer #2 agree that after the Due Diligence Deadline: (a) any changes to the 1st REPC shall require the mutual written consent of Buyer #1 and Buyer #2; (b) Buyer #2 shall not communicate, or attempt to communicate, directly with the Owner/Developer or with any construction personnel associated with the Property; (c) all Change Orders of any kind requested by Buyer #2 shall be coordinated only through Buyer #1 (who shall be the exclusive point of contact with the Owner/Developer and/or all construction personnel); (d) all Change Orders must be mutually agreed to in writing by Buyer #1 and Buyer #2; (e) all Change Orders shall be paid for by Buyer #2 at the time the Owner/Developer and/or construction personnel agree in writing to the Change Order; and (f) all payments for Change Orders made by Buyer #2 shall be absolutely non-refundable to Buyer #2 for any reason.

6. WALK-THROUGH INSPECTION. Before Settlement, Buyer #2 (or Buyer #2's representative) may, upon reasonable notice to Buyer #1, join Buyer #1 in conducting a "walk-through" inspection of the Property as permitted under the terms of the 1st REPC. Buyer #1 and Buyer #2 agree to cooperate with each other in good faith in coordinating the walk-through inspection. Buyer #2 acknowledges that only Buyer #1 has the right to submit to the Owner/Developer a list of requested repairs, corrections or replacements for the Property ("Punchlist"). Buyer #1 and Buyer #2 agree to cooperatively work with each other to prepare the Punchlist. Except as otherwise agreed in writing, Buyer #2 agrees that Buyer #2 shall have no right to submit an independent Punchlist to the Owner/Developer; nor shall Buyer #1 be responsible to Buyer #2 for completion of the Punchlist. The failure of Buyer #2 to conduct a walk-through inspection with Buyer #1 (or Buyer #1's representative) shall constitute a waiver by Buyer #2 of the right to participate with Buyer #1 in creation of the Punchlist.

7. AGREEMENT TO PAY BROKERAGE FEES. The Brokerage Fees due as a result of the closing of the purchase of the Property between Buyer #1 and Buyer #2 shall be equal to: \$_____ or _____% of the Purchase Price. Change Orders Are Are Not, included in calculation of the Brokerage Fees. Buyer #1 shall be responsible for payment of the Brokerage Fees. The escrow/closing office is authorized and directed to pay the Brokerage Fees at completion of the Closing. Unless otherwise agreed in writing by the Broker for Buyer #1 and the Broker for Buyer #2, the Brokerage Fees shall be shared equally between the Brokers.

TO THE EXTENT any terms of this ADDENDUM modify or conflict with any provisions of the 2nd REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the 2nd REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until AM PM Mountain Time on _____ (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the 2nd REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

Buyer Seller Signature (Date) (Time) Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:
 ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.
 COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. _____.
 REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

(Signature) (Date) (Time) (Signature) (Date) (Time)

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R592. Insurance, Title and Escrow Commission.
Rule R592-16. Prohibited Escrow Settlement Closing Transactions.
R592-16-1. Authority.

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer.

R592-16-2. Purpose and Scope.

(1) The purpose of this rule is to identify certain escrow practices involving two or more back to back sales and purchases of the same parcel of real property, which the Commission finds may violate the Insurance Code or rules, and therefore it is necessary to identify and prohibit such conduct.

(2) These practices include sales and purchases of the same parcel of real property where funds from the final purchaser are received by the initial seller despite having no contractual privity and those where no statutory authority exists for the title insurer, agency title insurance producer, or individual title insurance producer to conduct one or more of such escrows under Section 31A-23a-406 and Rule R592-6-4(5).

(3) This rule applies to all title insurers, agency title insurance producers, individual title insurance producers, and all employees, representatives, and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

R592-16-3. Definitions.

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and the following:

(1) "Land flip" means two or more escrows involving real property where the following circumstances exist:

(a) Buyer B contracts with Seller A to buy a parcel of real property;

(b) Buyer B then contracts with Buyer C to sell the same parcel of real property; and

(c) Buyer B anticipates buying and selling the same parcel at or near the same time to Buyer C.

R592-16-4. Permitted Escrows of Flip Transactions.

Title insurers, agency title insurance producers, and individual title insurance producers are permitted to conduct escrows involving a land flip if each real estate transaction stands on its own and the following conditions are met:

(1) Buyer B, in the transaction with Seller A, must use funds separate and distinct from the funds used by Buyer C as part of the transaction between Buyer B and Buyer C.

R592-16-5. Prohibited Escrows of Flip Transactions.

Except as allowed under R592-16-4, title insurers, agency title insurance producers, and individual title insurance producers are prohibited from conducting any escrows involving a land flip.

R592-16-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

R592-16-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

KEY: escrow insurance flip

Authorizing, Implemented, or Interpreted Law: 31A-2-404(2)



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

June 8, 2006

MORTGAGEE LETTER 2006 -14

TO: ALL APPROVED MORTGAGEES

SUBJECT: Property Flipping Prohibition Amendment

On June 7, 2006, HUD published a final rule in the Federal Register amending regulations at 24 CFR 203.37a prohibiting property flipping in HUD's single-family mortgage insurance programs by providing additional exceptions to the time restrictions on sales. The rule and this mortgagee letter become effective for mortgages endorsed for insurance on or after July 7, 2006. This Mortgagee Letter also rescinds, in their entirety, Mortgagee Letters 2003-07 and 2005-05.

The additional categories of properties exempted from the time restrictions include sales of properties by:

- State and Federally chartered financial Institutions and government-sponsored enterprises (GSEs) (e.g., Fannie Mae and Freddie Mac)
- Local and State government agencies
- Nonprofits approved to purchase HUD REO properties at a discount
http://www.hud.gov/offices/hsg/sfh/np/np_hoc.cfm
- Sales of properties within Presidentially-Declared Disaster Areas (upon FHA's announcement of eligibility in a mortgagee letter specific to said disaster)

Prohibition on Property Flipping Described

Property flipping is a practice whereby a property is resold a short period of time after it is purchased by the seller for a considerable profit with an artificially inflated value, often abetted by a lender's collusion with the appraiser. FHA's policy prohibiting property flipping eliminates the most egregious examples of predatory flips of properties within the FHA mortgage insurance programs.

Overview of FHA's Property Flipping Policy

FHA requires that: a) only owners of record may sell properties that will be financed using FHA-insured mortgages; b) any resale of a property may not occur 90 or fewer days from the last sale to be eligible for FHA financing; and c) that for resales that occur between 91 and 180 days where the new sales price exceeds the previous sales price by 100 percent or more, FHA will require additional documentation validating the property's value. FHA also has flexibility to examine and require additional evidence of appraised value when properties are re-sold within 12 months.

Sale by Owner of Record

To be eligible for a mortgage insured by FHA, the property must be purchased from the owner of record and the transaction may not involve any sale or assignment of the sales contract. This requirement applies to all FHA purchase money mortgages regardless of the time between resales.

The mortgage lender must obtain documentation verifying that the seller is the owner of record and submit this to HUD as part of the insurance endorsement binder; it is to be placed behind the appraisal on the left side of the case binder. This documentation may include, but is not limited to, a property sales history report, a copy of the recorded deed from the seller, or other documentation such as a copy of a property tax bill, title commitment or binder, demonstrating the seller's ownership of the property and the date it was acquired. Mortgagees participating in the Lender Insurance program (see ML 2005-36) are to retain this documentation and provide it to FHA upon request.

Resales Occurring 90 Days or Less Following Acquisition

If the owner sells a property within 90 days after the date of acquisition, that property is not eligible security for a mortgage insured by FHA unless it falls within one of the exceptions to the time restrictions on resales set forth in §203.37a(c) of the regulations. FHA defines the seller's date of acquisition as the date of settlement on the seller's purchase of that property. The resale date is the date of execution of the sales contract by the buyer that will result in a mortgage to be insured by FHA.

As an example, a property acquired by the seller is not eligible for a mortgage to be insured for the buyer unless the seller has owned that property for at least 90 days. The seller must also be the owner of record.

Resales Occurring Between 91 and 180 Days Following Acquisition

If the resale date is between 91 and 180 days following acquisition by the seller, the lender is required to obtain a second appraisal made by another appraiser *if* the resale price is 100 percent or more over the price paid by the seller when the property was acquired.

As an example, if a property is resold for \$80,000 within six months of the seller's acquisition of that property for \$40,000, the mortgage lender must obtain a second independent appraisal supporting the \$80,000 sales price. The mortgage lender may also provide documentation showing the costs and extent of rehabilitation that went into the property resulting in the increased value but must still obtain the second appraisal. The cost of the second appraisal may not be charged to the homebuyer.

FHA also reserves the right to revise the resale percentage level at which this second appraisal is required by publishing a notice in the Federal Register.

Resales Occurring Between 91 Days and 12 Months Following Acquisition

If the resale date is more than 90 days after the date of acquisition by the seller but before the end of the twelfth month following the date of acquisition, FHA reserves the right to require additional documentation from the lender to support the resale value if the resale price is 5 percent or greater than the lowest sales price of the property during the preceding 12 months. At FHA's discretion, such documentation may include, but is not limited to, an appraisal from another appraiser.

FHA will announce its determination to require the additional appraisal and other value documentation, such as an automated valuation method (AVM), through a Federal Register issuance. This requirement may be established either nationwide or on a regional basis, at FHA's discretion.

Exceptions to 90-day Restriction

The following sales are exempt from the time restrictions provided by §203.37a:

- Sales by HUD of its Real Estate Owned
- Sales by other United States Government agencies of single family properties pursuant to programs operated by these agencies.
- Sales of properties by nonprofits approved to purchase HUD-owned single-family properties at a discount with resale restrictions.
- Sales of properties that are acquired by the sellers by inheritance.
- Sales of properties purchased by employers or relocation agencies in connection with relocations of employees.
- Sales of properties by state and federally chartered financial institutions and Government Sponsored Enterprises.
- Sales of properties by local and state government agencies.
- Upon FHA's announcement of eligibility in a notice (i.e., ML), sales of properties located in areas designated by the President as federal disaster areas, will be exempt from the restrictions of the property-flipping rule. The notice will specify how long the exception will be in effect and the specific disaster area affected.

Inapplicability of §203.37a to New Construction

The restrictions in 203.37a are not applicable to a builder selling a newly built home or building a home for a homebuyer wishing to use FHA-insured financing.

Date of Property Acquisition Determined by the Appraiser

Mortgage lenders may rely on information provided by the appraiser in compliance with the updated Standard Rule 1-5 of the Uniform Standards of Professional Appraisal Practice (USPAP). This rule requires appraisers to analyze any prior sales of the subject property that occurred within specific time periods, now set for the previous three years for one-to-four family residential properties.

As a result, the information contained on the Uniform Residential Appraisal Report or other applicable appraisal report form describing the Date, Price and Data for prior Sales is to include all transactions for the subject property within three years of the date of the appraisal and the comparable sales within 12 months of the date of the comparable sale. Appraisers are responsible for considering and analyzing any prior sales of the property being appraised within three years of the date of the appraisal and the comparables that are utilized within 12 months of the date of the comparable sale.

Therefore, provided that the URAR completed by the appraiser shows the most recent sale of the property to have occurred at least one year previously, no additional documentation is required from the mortgage lender. The mortgage lender remains accountable for verifying that the seller is the owner of record and may rely on information developed by the appraiser for this purpose if provided. However, if the lender obtains conflicting information before loan settlement, it must resolve the discrepancy and document the file accordingly.

If you have any questions regarding this Mortgagee Letter, please call 1-800-CALL-FHA.

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing-
Federal Housing Commissioner

NOTICE OF
PROPOSED NEW RULE

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

Agency Information

1. Agency: Insurance - Title and Escrow Commission
 Room no.: 3110
 Building: STATE OFFICE BLDG
 Street address 1: 450 N MAIN ST
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84114-1201
 Mailing address 1: PO BOX 146901
 Mailing address 2:
 City, state, zip: SALT LAKE CITY UT 84114-6901

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Jilene Whitby	801-538-3803	801-538-3829	jwhitby@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 38824 Date filed: 08/28/2014 02:35 PM
 State Admin Rule Filing Key: 155530
 Utah Admin. Code ref. (R no.): R 592 - 16 -

Title

2. Title of rule or section (catchline):
 Prohibited Escrow Settlement Closing Transactions.

Notice Type

3. Type of notice: New Rule

Rule Purpose

4. Purpose of the rule or reason for the change:
 This rule replaces Bulletin 2007-1, Prohibited Escrow Settlement Closing Transactions. The purpose of this rule is to identify certain escrow practices involving two or more back to back sales and purchases of the same parcel of real property, which the Title and Escrow Commission (Commission) finds may violate the insurance code or rules.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.
No

Rule Summary

6. Summary of the rule or change:
The rule defines a land flip and then describes a permitted and prohibited escrow flip transaction.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No

The rule provides permitted and prohibited escrow procedures for a flip transaction. Those found to be in violation of this rule may be required to pay a forfeiture that would go into the state fund. Forfeiture amounts would vary depending on the severity of the violation.

B) Local government:

Affected: No

The implementation of this rule will have no fiscal impact on local governments. The rule deals solely with the process of a flip transaction by a title licensee.

C) Small businesses:

Affected: No

("small business" means a business employing fewer than 50 persons)

This rule specifically requires title insurance agencies involved in property flip transactions to use separate and distinct funds for each transaction. This rule is being promulgated to stop the practice of using the same funds for multiple transactions in a flip. Each transaction is to stand on its own financially. This may slow the process of flipping a property. As a result, slowing the flow of income may reduce the income. Not all licensees participate in the practice of flipping properties without properly funding each transaction. The fiscal impact will vary for those that do and now are not allowed to. The department has no way of calculating the impact on these licensees.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

This rule specifically requires title insurance licensees, agencies and individuals, involved in property flip transactions to use separate and distinct funds for each transaction. This rule is being promulgated to stop the practice of using the same funds for multiple transactions in a flip. Each transaction is to stand on its own financially. This may slow the process of flipping a property. As a result, slowing the flow of income may reduce the income. Not all licensees participate in the practice of flipping properties without properly funding each transaction. The fiscal impact will vary for those that do and now are not allowed to. The department has no way of calculating the impact on these licensees.

Compliance Cost Information

8. Compliance costs for affected persons:

Not all licensees participate in the practice of flipping properties without proper funding for each transaction, and those that do, vary in how often they flip properties. As a result the fiscal impact of

this rule, if any, will vary among those that participate in this practice. It cannot be calculated by the department.

Department Head Comments

- 9. A) Comments by the department head on the fiscal impact the rule may have on businesses:
Any fiscal impact to businesses will be to those title licensees that have not used separate and distinct funds for multiple transactions in a flip. It is, however, a measure that protects individuals that could unknowingly be involved in a prohibited flip transaction not properly funded that could be financially harmful to them.
- B) Name and title of department head commenting on the fiscal impacts:
Todd E. Kiser, Insurance Commissioner

Citation Information

- 10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.
State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :
31A-2-404(2)

Incorporated Materials

- 11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page): Publisher: Date Issued: Issue, or version: ISBN Number: ISSN Number: Cost of Incorporated Reference: Adds, updates, removes:

Comments

- 12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)
 - A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/27/2014
 - B) A public hearing (optional) will be held:
- | | | |
|------------------|-------------------|---|
| On (mm/dd/yyyy): | At (hh:mm AM/PM): | At (place): |
| 10/20/2014 | 09:00 AM | 420 N. State St., Copper Rm of East Senate Bldg, Salt Lake City, UT 84114 |

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 11/03/2014

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):
escrow insurance flip

File Information

15. Attach an RTF document containing the text of this rule change (filename):
There is a document associated with this rule filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title: Todd Kiser
Commissioner Date (mm/dd/yyyy): 08/28/2014