

R592. Insurance, Title and Escrow Commission.

R592-19. Winding Down the Business of a Resident Agency Title Insurance Producer.

R592-19-1. Authority.

This rule is promulgated by the commissioner pursuant to Subsection 31A-2-404(6).

R592-19-2. Purpose and Scope.

(1) The purpose of this rule is to provide a process for winding down the business of a resident agency title insurance producer.

(2) This rule applies to a resident agency title insurance producer.

R592-19-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

(1) "Agency" means a resident agency title insurance producer.

(2) "Escrow file" means a physical or electronic document relied on or generated in conducting escrow under Title 31A.

(3) "Title file" means a physical or electronic document relied on or generated during the process of placing title insurance.

(4) "Underwriter" means an insurance company that underwrites title insurance risks.

(5) "Wind down" and "winding down" mean the process of closing a resident agency title insurance producer's business.

R592-19-4. Agency's Annual Plan.

(1)(a) An agency shall annually prepare a plan for winding down its business.

(b) The plan shall state:

(i) the location at which the agency's escrow files will be stored for a period of at least 120 days after the wind down is completed;

(ii) each past and current underwriter from which the agency had or has an appointment;

(iii) that an underwriter from whom the agency currently has an appointment is authorized to obtain the prior three years of statements for the agency's:

(A) trust account;

(B) operating account; and

(C) any associated accounting and underwriting files;

(iv) contact information for the agency; and

(v) contact information for an underwriter described in Subsection (1)(b)(ii).

(c) The agency shall annually:

(a) review and update its wind down plan, as necessary;
and

(b) provide the plan to an underwriter from which it
currently has an appointment.

(2) The agency shall certify in the annual report required
by Section 31A-23a-415 that the plan has been properly reviewed,
updated, and provided to each underwriter.

R592-19-5. Notice of Intent to Wind Down.

An agency shall provide written notice of intent to wind
down no later than 45 days before the wind down is completed.

(1) The notice shall be sent to:

(a) the Department at title@utah.gov; and

(b) each underwriter from which the agency currently has
an appointment.

(2) The notice shall include:

(a) a copy of the agency's most recent plan;

(b) the name, appointment, and termination date for each
past and current underwriter from which the agency had or has an
appointment;

(c) the name, title, email address, and telephone number
for each current employee;

(d) the name, email address, and telephone number for an
agency representative that can answer questions for at least one
year after the wind down is completed;

(e) a list of all pending files and all open orders in
which a commitment has been prepared but not paid for as of the
date of the notice;

(f) the agency's written acknowledgement that a final
audit of the agency's trust and operating accounts will be
conducted within 60 days after the wind down is completed; and

(g) the date on which the wind down will be completed.

R592-19-6. Providing Escrow Files and Information to an Underwriter **Before the Wind Down is Completed.**

(1) Before the date on which the wind down is completed,
an agency shall provide to each underwriter from which the
agency had or has an appointment the following records
pertaining to that underwriter:

(a) each escrow file;

(b) a list of pending escrow transactions; and

(c) a list of outstanding escrow commitments.

(2) (a) For each transaction identified in Subsection
(1)(b), an agency shall send to each interested person a written
notice that states:

(i) the name of the underwriter that has custody and
control of the person's files; and

(ii) the contact information for the underwriter in Subsection (2) (a) (i).

(b) The agency shall send the written notice to each underwriter in Subsection (2) (a) (i) no later than 30 days before the agency's final date of operation.

(c) The agency shall retain a copy of the written notice in Subsection (2) (b) in the escrow and title insurance file of each interested person.

(3) (a) An agency shall transfer funds in all undisbursed escrow and investment accounts to the appropriate underwriter for the benefit of the persons entitled to the funds.

(b) The transfer shall be completed before the date on which the wind down is completed.

(c) The transfer shall include:

(i) a list of the sources of transferred funds; and

(ii) a list of pending transactions.

(4) An agency shall provide to the Department a copy of the lists described in Subsections (1) (b) and (1) (c) no later than the date on which wind down is completed.

R592-19-7. Post Wind Down Audit.

(1) An agency shall conduct a final audit of the agency's trust and operating accounts upon completion of the wind down.

(2) The audit report shall be sent, within 60 days after the wind down is completed, to:

(a) the Department at title@utah.gov; and

(b) each underwriter from which the agency has an appointment immediately before the date on which the wind down was completed.

(3) If an underwriter does not receive a final audit report within 60 days of the date the wind down is completed, the underwriter shall:

(a) report the non-receipt to the Department within ten days; and

(b) (i) prepare a final audit report based on records in the underwriter's possession; and

(ii) submit the report to the Department within 30 days of notifying the Department.

(4) If the underwriter completes the final audit report, the expense of preparing the report may be reimbursed under Section 31A-41-203.

R592-19-8. Effective Date.

The commissioner will begin enforcing this rule 45 days from the rule's effective date.

R592-19-9. Severability.

If any provision of this rule, Rule R592-19, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: title, escrow, insurance, wind down

Date of Enactment or Last Substantive Amendment:

Authorizing, and Implemented or Interpreted Law: 31A-2-404(6)