

R592. Insurance, Title and Escrow Commission.

R592-15. Submission of a Schedule of Minimum Charges for Escrow Services.

R592-15-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404 which requires the Commission to make rules related to title insurance.

R592-15-2. Purpose and Scope.

(1) The purpose of this rule is to establish the procedures for filing a Schedule of Minimum Charges for Escrow Services pursuant to Section 31A-19a-209.

(2) This rule applies to all title insurers, agency title insurance producers and individual title insurance producers who are not an employee of a title insurer or who are not designated by an agency title insurance producer that ~~providing~~ provide escrow services in Utah.

R592-15-3. Required Documents.

(1) The department requires that the documents described in this section shall be used for all filings, and are available on the department's web site, <http://www.insurance.utah.gov>.

(a) "Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer"; and

(b) "Schedule of Minimum Charges for Escrow Services."

R592-15-4. Definitions.

In addition to the definitions of Sections 31A-1-301, 31A-2-402, and 31A-19a-102, the following definitions shall apply for the purpose of this rule.

(1) "Additional escrow services" means escrow settlement services that are rendered in excess of the escrow settlement services not specifically shown in the minimum escrow charges listed in the Schedule of Minimum Charges for Escrow Services.

(2) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(3) "Charge" means a dollar amount charged for a service rendered by a title insurer, agency title insurance producer, or individual title insurance producer.

(4) "Document preparation" means the preparation or compilation of documents in connection with escrow services.

(5) "Electronic filing" or "file electronically" means:

(a) a filing submitted via the internet by a title insurer using the System for Electronic Rate and Forms Filings (SERFF); or

(b) a filing submitted via an email system by an agency title insurance producer or an individual title insurance producer ~~not designated to an agency title insurance producer~~.

(6) "Escrow charge" means a dollar amount charged for an escrow service shown in the Schedule of Minimum Charges for Escrow services.

(7) "Escrow services" means those services related to settlements of real estate transactions.

(8) "File and use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(9) "File before use" means a filing can be used, sold, or

offered for sale after it has been filed with the department, and a stated period of time has elapsed from the date filed.

(10) "Filer" means a person or entity who submits a filing.

(11) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The Filing Objection Letter may, in addition to requiring correction of non-compliant items, request clarification or additional information pertaining to the filing.

(12) "Letter of Authorization" means a letter signed by an officer of the licensee on whose behalf the filing is submitted and which designates filing authority to the filer.

(13) "Long-term escrow" means a "For Benefit Of" (FBO) account that is for the purpose of payment collection and administration of seller-financed transactions, as described by an escrow agreement.

(14) "Mini escrow" means an escrow settlement service conducted by an agency title insurance producer to clear a title, obtain payoffs and record necessary closing documents for a lender that performs his or her own closing service.

(15) "Minimum escrow fee" means the minimum amount that must be charged for escrow settlement services that are rendered.

(16) "Order to Prohibit Use" means an order issued by the commissioner that prohibits the use of a filing.

(17) "Other settlement services" means additional services not specifically listed in the Schedule of Minimum Charges for Escrow Services.

(18) "Rejected" means a filing is:

(a) not submitted in accordance with Utah laws and rules;

(b) returned to the filer by the department, with the reasons for rejection; and

(c) not considered filed with the department.

R592-15-5. General Filing Information.

(1) Each filing submitted must be accurate, consistent, complete, and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) Licensees are responsible for assuring compliance with Utah laws and rules. Filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule will be rejected as incomplete and returned to the filer. A rejected filing:

(a) is not considered filed with the department;

(b) must be submitted as a new filing; and

(c) will be charged a new filing fee.

(4) Prior filings will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) A filing may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is not in compliance with Utah laws and rules, a Filing Objection Letter or an Order to Prohibit Use

will be issued to the filer. The commissioner may require the licensee to disclose deficiencies in rating practices to affected consumers.

(6)(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 15 days of the date the original filing was submitted to the department. The filer must reference the original filing.

(c) A new filing is required if a filing correction is made more than 15 days after the date of the original filing was submitted to the department. The filer must reference the original filing.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R592-15-9.

(8) A filer must notify the department when withdrawing a previously filed rate.

R592-15-6. Filing Requirements.

(1) A title insurer, agency title insurance producer, individual title insurance producer who is not an employee of a title insurer or who is not designated to an agency title insurance producer shall electronically file a Schedule of Minimum Escrow Service Charges.

(2) Only an individual who is authorized to act on behalf of the insurer, agency title insurance producer or individual title insurance producer can submit a filing.

(3)(a) An initial Schedule of Minimum Charges for Escrow Services filing is a file and use filing and is effective the day the initial schedule is filed.

(b) A revised Schedule of Minimum Charges for Escrow Services filing is a file before use filing and is effective:

(i) 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed; or

(ii) a date specified by the filer that is later than 30 calendar days after the revised Schedule of Minimum Charges for Escrow Services is filed.

(4) All filings must be submitted as an electronic filing via:

(a) email; or

(b) SERFF.

(5) Email Filing: A complete email filing consists of the following:

(a) an email with a title showing the name of the filer and stating that it is an escrow rate filing;

(b) Utah Transmittal Document for Agency Title Insurance Producer or Individual Title Insurance Producer, completed and containing the following items in the following order:

(i) completed filing description, contained in Section 9 of the transmittal document, with the following information presented in the order shown.

(A) Certification.

(I) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(II) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(III) A filing will be rejected if the certification is false,

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missing, or incomplete.

(IV) a certification that is false may subject the licensee to administrative action.

(B) Indicate if the filing is:

(I) new;

(II) replacing or modifying a previous submission, with changes described;

(III) previously rejected, with reasons for rejection and previous filing's submission date; or

(IV) previously objected to or prohibited, with reasons for resubmission.

(c) Schedule of Minimum Charges for Escrow Services, completed as follows:

(i) all blank fields must be completed;

(ii) if a listed service is not performed by a licensee, the field must show "N/A" or "Not Applicable"; and

(iii) The Schedule of Minimum Charges for Escrow Services shall not be altered.

(d) Letter of Authorization.

(i) When the filer is not the licensee, a Letter of Authorization from the licensee must be attached.

(ii) The licensee remains responsible for making sure that the filing is in compliance with Utah laws and rules.

(e) As required by subsection 31A-19a-203(1)(e)(i), the rate filing fee must be received by the department within 5 days of the electronic submission or the filing will be rejected.

(56) SERFF Filing. A complete SERFF filing consists of the following:

(a) The completed description section on the general information tab, presented in the order shown below.

(i) Certification.

(A) The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules.

(B) The following statement must be included in the filing description: "BY SUBMITTING THIS FILING I CERTIFY THAT THE ATTACHED FILING HAS BEEN COMPLETED IN ACCORDANCE WITH UTAH ADMINISTRATIVE RULE R592-15 AND IS IN COMPLIANCE WITH APPLICABLE UTAH LAWS AND RULES".

(C) A filing will be rejected if the certification is false, missing, or incomplete.

(D) A certification that is false may subject the licensee to administrative action.

(ii) Indicate if the filing is:

(A) new;

(B) replacing or modifying a previous submission, with changes described;

(C) previously rejected, with reasons for rejection, and previous filing's submission date; or

(D) previously objected to or prohibited, with reasons for resubmission.

(b) Schedule of Minimum Charges for Escrow Services completed as follows, and attached to the rate/rule schedule tab:

(i) all blank fields must be completed;

(ii) if a listed service is not performed by a licensee, the field must show "N/A" or "Not Applicable"; and

(iii) The Schedule of Minimum Charges for Escrow Services shall not be altered.

(c) Letter of Authorization.

(i) When the filer is not the licensee, a Letter of Authorization from the licensee must be attached.

(ii) The licensee remains responsible for making sure that the filing is in compliance with Utah laws and rules.

(d) As required by subsection 31A-19a-203(1)(e)(i), the rate filing fee must be received by the department within 5 days of the electronic submission or the filing will be rejected.

R592-15-7. Charges.

(1) Escrow Service Charges.

(a) In accordance with subsection 31A-19a-209(3), no charge may be filed or used that would cause the ~~filer agency title insurance producer or individual title insurance producer~~ to operate at less than the cost of doing the business of escrow.

(b) Only minimum escrow charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.

(2) Other Settlement Services Charges.

(a) other settlement services charges will be used for services not specifically shown in the Schedule of Minimum Charges for Escrow Services.

(b) other settlement service charge must be filed as a per hour charge.

(3) Document Preparation Charge.

Only document charges shown in the Schedule of Minimum Charges for Escrow Services must be filed.

(4) Other services which are not specifically listed on the Schedule of Minimum Charges for Escrow services may be rendered provided a justifiable charge is made.

R592-15-8. Correspondence and Status Checks.

(1) When corresponding with the department, provide the following information to identify the original filing:

(a) type of filing;

(b) date of filing; and

(c) submission method; SERFF or email.

(2) A filer can request the status of its filing 60 days after the date of submission.

R592-15-9. Responses.

(1) A response to a Filing Objection Letter must include:

(a) a cover letter identifying the changes made; and

(b) revised documents with all changes highlighted.

(2)(a) An Order to Prohibit Use becomes final 15 days after the date of the Order.

(b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing no later than 15 days after the date of the Order.

(d) Once the Order to Prohibit Use has been issued, a new filing is required if the company chooses to make the requested changes

addressed in the original Filing Objection Letter. The new filing must reference the previously prohibited filing.

R592-15-10. Penalties.

A person found to be in violation of this rule shall be subject to penalties under Section 31A-2-308.

R592-15-11. Enforcement Date.

The commissioner will begin enforcing this rule 15 days from the effective date of this rule.

R592-15-12. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall 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: title escrow filings

Date of Enactment or Last Substantive Amendment: April 11, 2011

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