



Insurance Department

State of Utah

GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor
TODD E. KISER
Commissioner

State of Utah Title & Escrow Commission Meeting Meeting Information

Date: December 14, 2015 **Time:** 9AM **Place:** East Building, Copper Room

MEMBERS

COMMISSION MEMBERS

xChair, Bob Rice (*Insurer, Ada County, ID*) xMatthew Jagerson (*Agency, Utah County*)
Co-Chair, Jeff Wiener (*Insurer, Salt Lake County*) xDavid Moore (*Agency, Salt Lake County*)
Sylvia Andersen (*Public Member, Salt Lake County*)

DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner* xPerri Babalis, *AG Counsel* xBrett Barratt, *Deputy Comm.*
Suzette Green-Wright, *MC Dir.* Reed Stringham, *AG Counsel* xTammy Greening, *Examiner*
xGreg Soderberg, *ALJ* xAdam Martin, *Examiner* xSteve Gooch, *PIO Recorder*

PUBLIC

Elliott H. Stone James Swan Matt Sager
Sheri Olsen (phone) Amy Crabtree (phone) Cal Robinson (phone)
Adam Back (phone) Matt Ryden (phone) Wade Taylor (phone)

MINUTES — *Not Approved*

General Session: (Open to the Public)

- **Welcome** / Bob Rice, Chair (10:15 AM)
 - Meeting started late due to inclement weather.
- **Adopt Minutes of Previous Meeting**
 - David asks about Matthew Barber, who showed up on last month's licensing report — is there any clarification about him? Adam says sometimes if a line of authority is added to an existing license, it shows up as a reinstated license.
 - Tammy says he's with Key Land Title in Spanish Fork. The situation Adam described is what happened with Mr. Barber's license.
 - Steve enters a correction sent by Jeff into the record. Jeff asked that the minutes on page 5 where it says "Jeff states there are two commission members on the committee" be amended to read: "Jeff states there are 5 members on the committee including 2 underwriters pursuant to a statute change recommended by Mr. Stevens and that Mr. Stevens remarks should be addressed to the entire commission. Further, Jeff is unaware of any action being taken by the commission except as to what is on the agenda as required by a public meeting." Steve will review the record and make the necessary changes.
 - **Motion by David to adopt minutes. Seconded by Matthew. Motion passes 3-0.**
- **Reports**
 - Concur with Licensee Report / Tammy
 - There were no new agencies in November, and no lapses that they are aware of.
 - David asks about reinstated individual licenses, specifically Jeff McCluskey, whose license lapsed in 2010 and was reinstated in 2015. He asks if it was a reinstatement or a new license. Tammy says it was a reinstatement. Adam says it looks like a line of authority was added, similar

- to the situation with Mr. Barber. He will have to look to make sure. David asks if you can have just a line of authority expire. Tammy says yes, if you don't do your CE.
- David asks for confirmation that after a year you have to retake the test, and after two you get a new number. Adam says yes.
 - **Motion by David to concur. Seconded by Matthew. Motion passes 3-0.**
 - Concur with Complaint & Enforcement Report / Tammy
 - Suzette has highlighted the cases that were closed in November. There was one issue with underwriting rules, but Tammy doesn't know why it's marked. It looks like it's a spreadsheet error and should be "requirement of license", but she will need to review it.
 - David asks about "audit completed/audit scheduled" and how many audits are done regularly. Adam says two a quarter. Right now they're doing desk audits, which requires licensees to send in materials for review.
 - Tammy says the red area on the first page shows the items that were opened in November, including an alleged violation of dual licensing, and some requirements of license. These could be a qualifier or an agency going down, or conducting business without a license. This includes when notaries are explaining documents and shouldn't be. This happened recently where a notary did a closing for a department employee, and the department employee made a complaint.
 - Bob asks what the unlicensed businesses are. Tammy says it could be a myriad of things, including an agency that lapsed and was reinstated, or a qualifier that went down, or an entity purporting to be a title and escrow service. We believe it's a condo scam in Mexico, and we're working with the Department of Commerce on it.
 - Tammy reviews the consumer complaint report. E-Case #3625 had a final payment due by the end of November. She will have to check to make sure it was done appropriately. No consumer cases were closed, but there are some open and in progress.
 - **Motion by Matthew to concur. Seconded by David. Motion passes 3-0.**
 - Request for Dual Licensee Expedited Request: None
 - Request for Attorney Exemption: None
 - **Administrative Proceedings Action** / Greg Soderberg, ALJ
 - Stipulation and Order: None
 - Order to Show Cause: None
 - Informal Adjudicative Proceeding and Order: None
 - Notice of Formal Adjudicative Proceeding: None
 - **Board Duties & Responsibilities** / Perri
 - **New Business**
 - Consider forming CFPB Working Group and defining scope
 - Elliott Stone asks if there are any requirements as to who can be on the committee, and can a public member chair the committee. Brett says a public member can be on the committee, and generally a commission member serves as the chair, but he is unaware of any requirements and thinks it would be the commission's decision.
 - Perri says the statute is virtually silent on subcommittees. The creation of a subcommittee can happen whenever necessary and members can be whoever they need to be. The main concern is with the Open Meetings Act — if there's a subcommittee, there needs to be compliance with the Act. No business can be conducted in a subcommittee; it all has to come back to the Title & Escrow Commission for a vote.
 - Bob asks if Elliott would be interested in chairing the subcommittee. He says yes.
 - **Motion by David to form a subcommittee chaired by Elliott Stone that will be a working group to define the scope of CFPB and compare CFPB to the laws and rules of the State of Utah. Seconded by Matthew. Motion passes 3-0.**
 - David will serve on the subcommittee. Elliott will contact people who would be interested. The subcommittee meeting will happen after the normal Title & Escrow Commission meeting. People

- interested in being on the subcommittee can contact Steve Gooch, who will pass their info on to Elliott Stone. **The first subcommittee meeting will be on January 11, 2016.**
- Review of CFPB laws compared to state laws / Jeff
 - **Moved to January meeting as Old Business.**
 - Open R592-11 for revisions to annual reporting and electronic filing / Tammy
 - Annual reports are currently sent to a department email address, which is generally safe. However, to be sure, the state has created a secure file upload system. Some agents file in January, so we would like to get the rule changed and website updated before then.
 - We will enlist the help of underwriters who should let their agents know the change is coming. We will also have the ULTA send out an email, as will the Department.
 - Bob asks if Tammy will be sending the new annual reporting process to the ULTA so they can send it on. She says yes.
 - Most reports are submitted in April, but one person submits in January, so we want to have the system ready for him.
 - **Motion by David to reopen R592-11. Seconded by Matthew. Motion passes 3-0.**
 - Tammy will give proposed language for the updated rule at the January meeting or prior to it.
 - **Old Business**
 - Process for renumbering a section / Steve
 - The process is to repeal the old rule, while simultaneously enacting a new rule. The timing of the comment period and everything overlaps. The old rule goes away at the same time the new one starts and there we are.
 - Renumbering R590-190 and R590-212 / Perri
 - The department looked at a bunch of rules that apply to title insurance: R590-170, 190, 212, 244 and 258. Of all of those, only R590-212 applies to title. She recommends moving it to R592, but the others should stay where they are in R590.
 - Bob asks if she has a recommendation as to what it should be renumbered as. Perri says it should be R592-17. Bob asks Perri if there are any changes or updates that need to be made to R590-212 since we're moving it. Perri says she doesn't know of any necessary changes, but the department might. Brett says if Perri's advice is that something needs to be updated, the department would rely on it.
 - **Motion by David to authorize the department to repeal R590-212 and create R592-17, which would be identical but renumbered. Seconded by Matthew. Motion passes 3-0.**
 - David asked about the repeal of R592-2. He notes that in June and July, the minutes said the department was going to repeal it, but there was never a vote of the commission to approve it. He notes that the commission started the repeal process, but never authorized the actual repeal. He would like to have a vote so there's documentation that the commission approved it.
 - Brett says the department's position is that the statute changed, and statute trumps rule. He remembers telling Steve that we don't need anything from the commission approving the repeal, because whether they say yes or no to repealing R592-2, the policymakers have spoken. David notes the process and action were appropriate, but there was no vote. He would just like to make it official.
 - **Motion by David to approve the repeal of R592-2. Seconded by Matthew. Motion passes 3-0.**
 - **Other Business**
 - Commissioner Kiser thanks the commission members and department staff for being at the meeting despite the terrible weather. It speaks to everyone's commitment and energy. He thanks observers for coming as well.
 - Commissioner Kiser announces that Greg Soderberg is the department's new Administrative Law Judge. He is a shared resource between the Insurance Department and the Department of Commerce.
 - **Hot Topics**

Executive Session (None)

- **Adjourn** (10:50 AM)
 - **Motion by Matthew to adjourn. Seconded by David. Motion passes 3-0.**
- **Next Meeting: **January 11**, 2016** — Copper Room

2016 Meeting Schedule in Copper Room

Jan 11	Feb 8 (<i>Centennial</i>)	Mar 14	Apr 11	May 9	Jun 13
Jul 11	Aug 8	Sept 12	Oct 17	Nov 14	Dec 12 (<i>Aspen</i>)