SB 121 and Utah Code § 31A-23a-402(a)

The law prohibits a title insurance agency from "directly or indirectly" paying "consideration" "as an inducement to obtaining title insurance business":

> A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business . . . (iii) any money or other consideration, except if approved under Section 31A-2-405[.]

Utah Code Section 31A-23a-402(2)(a)(iii).

In the context of an affiliated business relationship involving a realtor and a title insurance agency, this statute can be interpreted two ways.

On one hand, the statute can be read not to prohibit a title agency from distributing a share of agency profits to an owner/realtor because that distribution reflects the agency's profitability and is not a quid pro quo for title insurance business.

On the other hand, a profit distribution to an owner/realtor is arguably an “indirect” payment of “consideration” in exchange for title business from an owner/realtor. Under that reading, a profit distribution would be prohibited.

What is the position of the Title and Escrow Commission on this question?