



Insurance Department

State of Utah Title & Escrow Commission Meeting Meeting Information

State of Utah

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

Date: **May 28**, 2019

Time: **9AM**

Place: East Building, Copper Room

ATTENDEES

TITLE & ESCROW COMMISSION

xChair, James Swan (*Insurer, Salt Lake County*) xNancy Frandsen (*Insurer, Salt Lake County*)
xVice Chair, Alison McCoy (*Agency, Tooele County*) xDavid Moore (*Agency, Salt Lake County*)
Randy Smart (*Public Member, Salt Lake County*) xPerri Babalis, *AG Counsel - TEC*

DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner* xReed Stringham, *Deputy Comm.* xTracy Klausmeier, *P&C Dir.*
Randy Overstreet, *Licensing Dir.* Michael Covington, *CE Specialist* xAdam Martin, *MC Examiner*
xSteve Gooch, *PIO Recorder*

PUBLIC

Matt Ryden Carol Yamamoto Matt Sager
Frank Medina Blake Heiner Scott Cope
Jeff Wiener

MINUTES — *Not Approved*

General Session: (Open to the Public)

- **Welcome** / James Swan, Chair (9:02 AM)
 - Randy Smart is excused.
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
 - **Motion by David to adopt minutes. Seconded by Nancy. Motion passes 4-0.**
- **Concurrence Reports**
 - Licenses
 - Alison notes that Howard Carter and Darrell Back both have 40 years of service, which is pretty remarkable.
 - **Motion by Alison to concur. Seconded by Nancy. Motion passes 4-0.**
 - Penalties
 - Covius Title Insurance Agency of Utah LLC (Docket #2019-4120)
 - Adam says Covius was under audit, and during the process he requested the trust account documents from Zions Bank and they could not produce them. The account had been closed for lack of business and they had been using a trust account with Citibank, which doesn't have a branch in Utah. They had only done 10 closings since 2018, which resulted in a \$1,000 penalty.
 - **Motion by David to concur. Seconded by Alison. Motion passes 4-0.**
- **Board Duties & Responsibilities** / Perri
- **Update on 2019 Goals** / James
 - ULTA report / James
 - James did not attend the May meeting, so there is nothing to report.
 - REC report / Nancy

- April 17 meeting: Director Stewart said the PSA billboards and commercials were about to start and will run through June. He also said he had received phone calls from two attorneys asking what rules he was going to make regarding SB 121. He said there would be no rulemaking until they see how many new companies there are and how many complaints they get. They have 574 open investigative cases.
 - May 9 meeting: They are looking for a victim or near-victim who is willing to go on TV to share their story about emailed wire scams. Nancy doesn't know if they're looking for a title company or what. They stayed at 574 open investigative cases.
- **New Business**
 - 5-year reviews of title insurance rules / Steve
 - Steve explains that the Governor's Office made a law that all rules must be reviewed every five years to make sure they're still necessary.
 - R592-6: This is the unfair inducements and marketing practices rule. There isn't much to discuss because it is an important rule for the industry. David says it's functioning well and he can't think of anything that needs to be added. It's a valuable rule.
 - R592-7: This is the CE rule. James says the rule was recently amended and should be kept.
 - R592-8: David thinks there's a statutory provision that allows for attorney exemption, so we have to keep the rule. He thinks it's been very effective.
 - R592-9: Alison wonders if this needs to be reviewed in light of the new reserve requirements.
 - **Motion by Alison to continue R592-6, R592-7, R592-8, R592-9. Seconded by Nancy. Motion passes 4-0.**
- **Old Business**
 - TEC meeting schedule / Steve
 - James notes that there has been discussion in the past about the meeting schedule after the statutory change last session. He asks if these would be scheduled as the in-person definite meetings. Steve says yes.
 - Steve says it would be a good idea to cancel or reschedule the July 8 meeting. Randy won't be able to pull the licensing data until July 5, which is after Steve normally sends the materials. Pushing it back a week will work, as will canceling it. James suggests tentatively canceling it, pending any pressing agenda items or penalties. **James says, barring any pressing items, the chair cancels the meeting if the Commissioner concurs.** Steve will come up with alternate dates in case something comes up.
 - Nancy notes that with Option 1, the new commission members will start in August, but if they go with Option 2 they'll start in September. She asks if the UID has things that need to be finished with the current commission lineup. Reed says he wants to start a conversation about SB 121, and would like to involve James and David, but he expects it will be a longer discussion than just one meeting.
 - Alison prefers Option 1 because it would mean having a meeting in November versus December.
 - Nancy asks if it will still be possible to have a monthly meeting if Reed's discussion warrants it. Steve says yes. All of the meetings have been scheduled for the year.
 - **Motion by Alison to adopt Quarterly Option 1. Seconded by Nancy. Motion passes 4-0.**
- **Other Business**
 - Exam review / Reed
 - The contract with the current vendor for testing ends this year. There will be an RFP for a new vendor. The new contract will take effect Jan. 1, 2020. There will not be the typical exam review that we've done in prior years.
 - Back to meeting scheduling / Reed
 - Reed wonders how we would go about canceling meetings. Should the chair contact the UID, or vice versa?
 - James says Steve emails a proposed agenda to the chair and vice chair ahead of the meeting and asks for additional items. If there are no additional agenda items, that would be the right time to

- discuss with the UID potentially cancelling the meeting. Steve notes that he sends the agendas the Wednesday before the meeting, but he can start sending them a few days early.
- Nancy asks how the public will be notified that a meeting is canceled. Steve says he sends an email to the TEC and anyone on his title email list before the meeting. He'll send out a cancellation, put it on the UID's website, and will add a canceled meeting to the state's Public Notice site.
 - SB 121: Title laws still in effect / Reed
 - Reed and Perri went through the statute to identify rules and statutes that are affected by the affiliated business legislation. He's not sure how the TEC wants to proceed with notifying businesses, but he's thinking a bulletin might be a good idea. The list he provided likely isn't complete, but it's pretty close. A bulletin would show that there are other rules that need to be followed despite SB 121. James says he would support it. With the hectic way the legislation passed, there is the opportunity for misunderstanding about what SB 121 allows and doesn't allow. It would be a good idea to make sure that people know what laws and rules they're governed by, especially for people who are getting into the business for the first time.
 - Alison says everyone in the title industry is kind of panicked right now. Spelling out expectations in a bulletin would be helpful for giving clarity and direction.
 - Nancy says some of these companies may feel that if they're checking in with the DRE, they don't need to check with the UID. She says if a bulletin is issued, it should be given to Dir. Stewart too so the DRE can give it out too. Reed agrees.
 - James says the TEC is in favor of issuing a bulletin. Reed says he would be happy to put an initial draft together for the TEC to comment on. He wants to make sure that the bulletin clearly says the list of rules and statutes isn't complete — because circumstances matter — but they are the big ones.
 - David notes that the list is mostly negative — it's just things you can't do — but SB 121 didn't preclude licensing or a qualifier, etc. Those positive things need to be there.
 - James proposes having TEC members send comments to Reed within the next week for additions to the list. He suggests creating a summary followed by something like an index so it doesn't get too long. Nancy likes what Reed has provided.
 - Jeff Wiener notes that these laws will continue to be enforced by the UID despite the split and suggests putting that in the bulletin.
 - Frank Medina suggests adding R592-6 because unfair inducement will still be regulated. James notes that Reed has already included selected pieces of R592-6, but he welcomes the public to send suggestions to Reed as well. David asks that we include the requirement for filed minimum escrow rates.
 - Jeff anticipates that we will see continuing proposed changes during the next legislative session. He requests that the UID not remain neutral in regard to addressing the statutes. James thinks we haven't heard the last of legislative efforts on controlled business and it will again be a topic in the next session. Alison thinks it may be a good idea for the TEC to release an official statement or letter or position as a commission.
 - Carol Yamamoto is concerned that the TEC sets the rules, but it seems like the DRE isn't on board with the rules the title industry has to follow, so they make up their own rules to benefit them. It's a struggle: They always seem to get their way. James says the rules in the Insurance Code will be enforced by the UID. This is new territory for everybody. The purpose of the bulletin is to remind the new participants in the title insurance business that they're not governed by the DRE in these matters. Carol asks how it will be enforced and what will the penalties be. James anticipates that it will be enforced the same way. Reed says it will be business as usual as far as enforcement goes — if a law is on the books, the UID will enforce it.
 - Adam has 3 agencies that are working on affiliated business in one bank. He makes them read the statute and verify that they are aware of the cohabitation and sharing of office space, etc. He notes it in their file.

- Nancy asks if Adam's audits are always reacting to a complaint or can he set up an audit schedule. Can there be an automatic yearly audit for anyone who signs up with an affiliated business? Adam says he does random audits of all agencies. Nancy asks if affiliated can move to the top of the list. Adam says he's advising them that they will be audited within the first two years after their set up.
- Scott Cope notes that the website shows which agents can actively participate in business. He wonders if affiliated businesses can be tagged on the website as well. He says they have to disclose it at the closing table too, but they should also have to disclose it publicly on the website. Reed asks if licensing requirements say that affiliated business has to be disclosed. It may be something that happens at the DRE level. James asks if there's a legal basis or statutory requirement for putting it on the UID website. Scott says, after sitting in the meetings, it was a constant discussion about the public needing to know.
- James asks if the ABA disclosure is something the UID is open to exploring, and **requests that it be put on the next agenda.**
- New member process / Steve
 - Steve says there were 21 applications for the two openings on the TEC. Commissioner Kiser recommended Chase Phillips and Matt Ryden to the Governor's Office.
 - The Governor reviewed and approved them, and has sent them to the Senate for confirmation. The confirmation process begins on June 19, so the new members should be ready for July.
- **Hot Topics**

Executive Session (None)

- **Adjourn** (9:45 AM)
 - **Motion by Nancy to adjourn. Seconded by David. Motion passes 4-0.**
- **Next Meeting: August 12, 2019** — Copper Room

2019 Meeting Schedule in Copper Room*

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|--------|--------|---------|--------|--------|-------------------|
| Jan 14 | Feb 11 | Mar 11 | Apr 15 | May 28 | Jun 10 - Canceled |
| Jul 15 | Aug 12 | Sept 16 | Oct 21 | Nov 18 | Dec 16 |

* as currently scheduled; may change after Legislative Session