

5-Year Reviews of Title Insurance Rules

- **R592-16:** Prohibited Escrow Settlement Closing Transactions.

Utah statute requires all state agencies to do 5-year reviews of their rules to ensure they continue to make sense in a changing world.

What must be done at the November 18 Title & Escrow Commission meeting is to make a yes-or-no determination of whether the above rules should stay on the books.

Rules cannot be amended as part of a 5-year review, but the need for future amendments can be discussed for inclusion on a future agenda.

R592. Insurance, Title and Escrow Commission.

R592-16. Prohibited Escrow Settlement Closing Transactions.

R592-16-1. Authority.

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer.

R592-16-2. Purpose and Scope.

(1) The purpose of this rule is to identify certain escrow practices involving two or more back to back sales and purchases of the same parcel of real property, which the Commission finds may violate the Insurance Code or rules, and therefore it is necessary to identify and prohibit such conduct.

(2) These practices include sales and purchases of the same parcel of real property where funds from the final purchaser are received by the initial seller despite having no contractual privity and those where no statutory authority exists for the title insurer, agency title insurance producer, or individual title insurance producer to conduct one or more of such escrows under Section 31A-23a-406 and Rule R592-6-4(5).

(3) This rule applies to all title insurers, agency title insurance producers, individual title insurance producers, and all employees, representatives, and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

R592-16-3. Definitions.

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and the following:

(1) "Land flip" means two or more escrows involving real property where the following circumstances exist:

(a) Buyer B contracts with Seller A to buy a parcel of real property;

(b) Buyer B then contracts with Buyer C to sell the same parcel of real property; and

(c) Buyer B anticipates buying and selling the same parcel at or near the same time to Buyer C.

R592-16-4. Permitted Escrows of Flip Transactions.

Title insurers, agency title insurance producers, and individual title insurance producers are permitted to conduct escrows involving a land flip if each real estate transaction stands on its own and the following conditions are met:

(1) Buyer B, in the transaction with Seller A, must use funds separate and distinct from the funds used by Buyer C as part of the transaction between Buyer B and Buyer C.

R592-16-5. Prohibited Escrows of Flip Transactions.

Except as allowed under R592-16-4, title insurers, agency title insurance producers, and individual title insurance producers are

prohibited from conducting any escrows involving a land flip.

R592-16-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

R592-16-7. Severability.

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may 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: escrow insurance flip

Date of Enactment or Last Substantive Amendment: December 8, 2014

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