

**R592. Insurance, Title and Escrow Commission.**

**R592-2. Title Insurance Administrative Hearings and Penalty Imposition.**

**R592-2-1. Authority.**

This rule is promulgated pursuant to Subsections 31A-2-404(2)(e) and (h), to provide the process for~~[which direct the Title and Escrow Commission to make rules pertaining to the conduct of title administrative hearings, the delegation of]~~conducting or delegating a title administrative hearing, and the imposition of imposing a penalty penalties for a violations of statute or rule.

**R592-2-2. Purpose and Scope.**

- (1) The purposes of this rule are: ~~is~~
- (a) to establish procedures for the ~~[Commission]~~commission:
    - (i) to delegate ~~[authority]~~to the commissioner's administrative law judge ~~[department's administrative law judge to]~~the conduct of an administrative hearing to resolve a title insurance matter; or
    - (ii) to conduct an administrative hearing to resolve a title insurance matter; and
  - (b) to establish procedures for the ~~[Commission]~~commission, ~~[after an investigation by the commissioner],~~
    - (i) to impose penalties; and
    - (ii) for the commissioner to concur with the penalties imposed.
- (2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing the business ~~[as a title licensee]~~of title insurance, and continuing education providers submitting title continuing education programs for approval.

**R592-2-3. Definitions.**

For purposes of this rule, the commission adopts the definitions set forth in Utah Code Annotated (U.C.A.) Title 31A and the following: ~~["Title licensee" has the same meaning as found in Section 31A-2-402(3).]~~

- (1) "Commission" means the Title and Escrow Commission.
- (2) "Commissioner" means Utah's insurance commissioner.
- (3) "Title insurance matter" means a matter related to:
  - (a) title insurance; and
  - (b) an escrow conducted by a title producer.

**R592-2-4. Title Insurance Matters Referred for Enforcement.**

- (1) A title insurance matter referred for enforcement will be resolved by:
- (i) an informal adjudicative action pursuant to R592-2-5;
  - (ii) a stipulation and order issued by the commissioner; or
  - (iii) an administrative hearing conducted either by the commission or the commissioner's administrative law judge pursuant to R592-2-6.

**R592-2-5. Imposition of a Penalty When an Informal Adjudicative**

**Proceeding is Used to Resolve a Title Insurance Matter.**

(1) If the commissioner uses an informal adjudicative proceeding as set forth in 63G-4-203 and R590-160 to resolve a violation listed in Table 1 below, the commissioner shall use the penalties imposed by the commission in this Section.

(2) The commission shall impose the following penalties on title licensees for the violations listed in Table 1 below when resolved through an informal adjudicative proceeding.

Table 1

<u>Violation</u>	<u>1<sup>st</sup> Proceeding</u>	<u>2<sup>nd</sup> Proceeding</u>
<u>Failure to complete required continuing education hours.</u>	<u>Individual: \$1,000; Agency: n/a</u>	<u>Individual: \$2,000; Agency: n/a</u>
<u>Failure to respond to an inquiry of the commissioner.</u>	<u>Individual: \$500; Agency: \$750</u>	<u>Individual: \$1,000; Agency: \$1,500</u>
<u>Failure to file a required rate, form, or report.</u>	<u>Individual: n/a Agency: \$1,000</u>	<u>Individual: n/a; Agency: \$2,000</u>
<u>Late filing of a required rate, form, or report.</u>	<u>Individual: n/a; Agency: \$750</u>	<u>Individual: n/a; Agency: \$1,500</u>
<u>Failure to charge or collect a correct premium or a correct filed fee.</u>	<u>Individual: \$1,000; Agency: \$2,500</u>	<u>Individual: \$2,000; Agency: \$5,000</u>
<u>Charging or collecting a non-filed required fee.</u>	<u>Individual: \$1,000; Agency: \$2,500</u>	<u>Individual: \$2,000; Agency: \$5,000</u>
<u>Failure to pay assessment when due.</u>	<u>Individual: \$500; Agency: \$750</u>	<u>Individual: \$1,000; Agency: \$1,500</u>

**R592-2-4 6. Use of an Administrative Hearing[s] to Resolve a Title Insurance Matter.**

(1) When the commissioner sets a date for an administrative hearing to resolve a title insurance matter, the commissioner shall inform the commission of the hearing date.

~~[When an investigation involving title insurance or escrow is concluded and the commissioner or the respondent request an administrative hearing, the commissioner will report to the Commission the commissioner's conclusion and recommended disposition of the matter under investigation.]~~

(2) After being informed of a hearing date, the [The Commission]commission shall [will review the report at each meeting and, either]:

(a) delegate the conduct of the ~~[requested]~~ administrative hearing to the ~~[department's administrative law judge]~~ commissioner's administrative law judge; or

(b) ~~[determine that the Commission will]~~ conduct the requested administrative hearing.

(3) For an administrative hearing conducted by the ~~[Commission]~~ commission, the ~~[Commission]~~ commission shall ~~[will]~~:

(a) accept the date, time and place set by the commissioner or set a different [the] date, time, and place [of] for the administrative hearing;

(b) [notify the title license applicant, the title licensee, or the continuing education program] cause notification to be sent to the respondent(s), the commissioner's administrative law judge, and the commissioner's enforcement attorney of the date, time, and place of the administrative hearing;

(c) conduct the hearing [:-] pursuant to R590-160;

~~[(i) hear the evidence; and~~

~~[(ii) make a decision based on the evidence presented;]~~

(d) impose penalties [,- with the concurrence of the commissioner,] in accordance with Sections 31A-2-308, 31A-23a-111, 31A-23a-112, 31A-26-213, and 31A-26-214, subject to the concurrence of the commissioner; and

(e) issue an Order on Hearing.

(4) The ~~[department's]~~ commissioner's administrative law judge ~~[will]~~ shall assist the ~~[Commission]~~ commission in its conduct of an administrative hearing ~~as required.~~

#### **R592-2-5 7. Imposition of Penalties.**

~~[(1)]~~ The commission shall impose a penalty as follows:

(1) for an informal adjudicative proceeding, a penalty shall be imposed in accordance with Table 1 in R592-2-5;

(2) for a stipulation and order issued by the commissioner, the commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner;

(a) (i) If the commission imposes a penalty other than that recommended by the commissioner, the respondent may:

(A) accept the commission's penalty; or

(B) reject the commission's penalty;

(b) if a respondent rejects the penalty imposed by the commission, the stipulation and order shall be rescinded and returned to the commissioner for resolution;

(3) for an administrative hearing conducted by the commissioner's administrative law judge pursuant to R592-2-6

(2)(a), the commission shall impose the recommended penalty or a different penalty, subject to the concurrence of the commissioner; or [If the resolution of the investigation is an administrative hearing conducted by the department's administrative law judge and the administrative a penalty, the Commission must concur with the penalty imposed, prior to the imposition of the penalty.]

(4) [(2) If the resolution of the investigation is] for an administrative hearing conducted by the ~~[Commission]~~ commission, [and the administrative hearing imposes] the commission shall impose a penalty, subject to the concurrence of the commissioner [the commissioner must concur with the penalty imposed

~~, prior to the imposition of the penalty].~~

**R592-2-[6]8. Severability.**

~~If any provision or clause of this rule or its application to any person or situation is held 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. [If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provisions shall be and remain in full force.]~~

**R592-2-[7]9. Enforcement Date.**

The commissioner will begin enforcing this rule upon the rule's effective date.

**KEY: title insurance**

**Date of Enactment or Last Substantive Amendment: ~~[December 13, 2006]~~2009**

**Authorizing, and Implemented or Interpreted Law: 31A-2-402**