

R592. Insurance, Title and Escrow Commission.

R592-8. Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing.

R592-8-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Sections 31A-2-404 and 31A-23a-204~~[which authorizes the Commission to make rules for the administration of the provisions in this title related to title insurance and Section 31A-23a-204 which authorizes the Commission to make a rule to exempt attorneys with real estate experience from the three year licensing requirement to license an agency title insurance producer].~~

R592-8-2. Purpose and Scope.

(1) The purpose[s] of this rule [are]is to:

(a) ~~[to]~~delegate to the [C]ommissioner preliminary approval or denial of a request for an attorney exemption;

(b) ~~[to]~~provide [a description of the types of] acceptable real estate experience that [could] may be used by an attorney seeking [to qualify for the] an exemption;

(c) ~~[to]~~provide a process to apply for [a request for] an attorney exemption; and

(d) ~~[to]~~provide a process to appeal a denial of [a request for] an attorney exemption.

(2) This rule applies to ~~[all attorneys]~~ an attorney seeking an exemption under ~~[the provisions of]~~ Section 31A-23a-204.

R592-8-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301, 31A-2-402, and 31A-23a-10. Additional terms are defined as follows~~[In addition to the definitions of Sections 31A-1-301, 31A-2-402 and 31A-23a-102, the following definitions shall apply for the purposes of this rule]:~~

(1) "Attorney" means a person licensed, ~~[and]~~ in good standing, with the Utah State Bar.

(2) "Real estate experience" includes:

(a) law firm transactional experience consisting of any ~~[or all]~~ of the following:

(i) real estate transactions, ~~[including]~~ drafting documents, reviewing and negotiating contracts of sale, ~~[including]~~ real estate purchase contracts (REPC), commercial transactions, residential transactions;

(ii) financing and securing construction and permanent financing;

(iii) title review, due diligence, consulting and ~~[negotiations]~~ negotiating with title companies, researching and drafting ~~[opinions of]~~ title opinions, coordinating with title companies, pre-closing;

(iv) zoning, development, construction, homeowners' associations, subdivisions, condominiums, planned unit developments;

(v) conducting closings; and

(vi) estate planning, ~~[and]~~ probate-related transactions and conveyances.

(b) law firm litigation experience consisting of any ~~[or all]~~ of the following:

(i) foreclosures;

(A) judicial and non-judicial;

(B) homeowner association (HOA) lien foreclosure;

(ii) ~~[either side of]~~ homeowner vs. HOA litigation;

(iii) state construction registry litigation, ~~[–]~~ mechanics lien filing and litigation;

(iv) real estate disputes or litigation involving:

(A) a real estate contract;

- (B) a boundary line;
 - (C) a right[s] of way, an easement, or both~~[-and/or easement]~~;
 - (D) a zoning issue;
 - (E) a property tax issue;
 - (F) a title issue or claim;
 - (G) a landlord/tenant issue; and
 - (F) an estate ~~[and/]~~or probate litigation, or both, involving real property assets, claims, and disputes.
- (c) non-law firm experience consisting of any ~~[or all]~~of the following:
- (i) real estate agent, broker, developer, investor;
 - (ii) mortgage broker;
 - (iii) general contractor;
 - (iv) professor or instructor teaching real estate licensing, real estate contracts, or real estate law;
 - (v) lender involved with any ~~[or all]~~of the following real estate lending activities:
 - (A) lending;
 - (B) escrow; or
 - (C) foreclosure;
 - (vi) private lender;
 - (vii) in-house counsel involved in real estate transactions for bank, mortgage lender, credit union, title company, or agency title insurance producer;
 - (viii) employment with or counsel to a government agency involved in regulation of real estate, such as HUD, FHA, zoning, tax assessor, county recorder, insurance department, and ~~[F]~~federal or state legislatures;
 - (ix) escrow officer;
 - (x) title searcher; or
 - (xi) surveyor; and
 - (d) other experience with real estate not included in Subsections (a), (b), and (c)~~[-above]~~.

R592-8-4. Delegation of Authority.

The Commission hereby grants to the commissioner its preliminary concurrence ~~[to the]~~for approval or denial of a request for attorney exemption ~~[requested by an attorney pursuant to]~~under Section 31A-23a-204~~[to the Utah Insurance Commissioner]~~.

R592-8-5. Request for Exemption Process.

(1) An individual title licensee, who is an attorney ~~[as defined in this rule desiring to obtain]~~seeking an agency title insurance producer license under ~~[the exemption provided in]~~Subsection 31A-23[A]a-204(1)(c), shall ~~[make a request for exemption to the Commissioner in accordance with the requirements of this subsection]~~.

~~—(2) The applicant will]~~submit a letter addressed to the Commission:

- (a) requesting an exemption from the licensing time period requirements in Subsection 31A-23a-204(1)(a)~~[(†)]~~; and
- (b) providing the following information:
 - (i) the applicant's name, mailing address, ~~[and]~~email address, telephone number, and title license number;
 - (ii) a description of the applicant's real estate experience; and

(iii) a statement explaining why the applicant feels [that]the experience qualifies the applicant for the exemption.

(~~3~~2) The [€]commissioner [~~will~~]shall review the request for exemption within five business days of its receipt, and:

- (a) request additional information from the applicant, if necessary;
- (b) preliminarily approve the request for exemption; or
- (c) preliminarily disapprove the request for exemption.

(~~4~~3) The [€]commissioner [~~will~~]shall report monthly to the Commission [~~all~~]any preliminarily approved or denied requests for exemption received and reviewed[~~since the previous Commission meeting~~].

(~~5~~4) The [€]ommission [~~will~~]shall concur or [~~non~~]not concur with the [€]commissioner's preliminary approval or denial of a request for exemption.

(~~6~~5) If the [€]commissioner's preliminary denial of a request for exemption is concurred with by the Commission, the [€]commissioner will:

- (a) notify the applicant of the denial; and
- (b) inform the applicant of the applicant's right to a hearing.

(7) If the [~~Commissioner's~~]Commission concurs with the commissioner's preliminary approval of a request for exemption[~~is concurred with by the Commission~~], the [€]commissioner will expeditiously notify the applicant to submit an electronic license application and pay [~~the~~]any required fee[~~s and~~]or assessment[s].

(8) If the Commission does not concur with the commissioner's preliminary approval or preliminary denial, the applicant shall be informed of the applicant's right to a hearing.

~~R592-8-6]. Penalties.~~

~~—————A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

~~R592-8-7. Enforcement Date.~~

~~—————The Commission will begin enforcing this rule on the rule's effective date.~~

~~R592-8-8]. Severability.~~

~~[If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remaining provisions to other persons or circumstances shall not be affected.]~~If any provision of this rule, Rule R592-8, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: attorney exemption application process

Date of Enactment or Last Substantive Amendment: March 10, 2014

Notice of Continuation: June 10, 2019

Authorizing, and Implemented or Interpreted Law: 31A-1-301; 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-102; 31A-23a-204