

R592. Insurance, Title and Escrow Commission.

R592-16. ~~[Prohibited]~~ Escrow Settlement Closing Transactions.

R592-16-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to [Section]Subsection 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-]~~back-to-back 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, which the Commission finds may violate ~~[the Insurance Code or rules, and therefore it is necessary to identify and prohibit such conduct]~~Sections 31A-23a-406 and R592-6-4.

(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]:~~

~~_____ (a) a title insurance company;~~

~~_____ (b) an agency title insurance producer;~~

~~_____ (c) an individual title insurance producer; and~~

~~_____ (d) an employee, representative, or any other party working for or on behalf of a title insurance company, an agency title insurance producer, or an individual title insurance producer, 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]~~Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402. Additional terms are defined as follows:

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

~~(a) [Buyer B contracts with Seller A to buy a parcel of real property]~~A agrees to sell real property to B;

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

~~(c) [Buyer B anticipates buying and selling the same parcel at or near the same time to Buyer C]~~B plans to buy from A and sell to C at or near the same time.

R592-16-4. ~~[Permitted Escrows of Flip Transactions]~~Prohibited Escrow Involving a Land Flip.

~~[Title insurers, agency title insurance producers, and individual title insurance producers are~~

~~permitted to~~ A title insurance company, an agency title insurance producer, or an individual title insurance producer may not conduct escrow[s] involving a land flip ~~[if]~~ unless:

~~(1) each real estate transaction stands on its own; and [the following conditions are met:]~~

~~(1)2) [Buyer B, in the transaction with Seller A, must use funds]the funds used in each transaction are separate and distinct from the funds used [by Buyer C as part of the transaction between Buyer B and Buyer C]in a subsequent transaction.~~

~~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]If any provision of this rule, Rule R592-16, 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: escrow insurance flip

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

Notice of Continuation: November 25, 2019

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