

State of Utah
Administrative Rule Analysis
 Revised November 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New <u> x </u> ; Amendment <u> </u> ; Repeal <u> </u> ; Repeal and Reenact <u> </u>		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R592-18	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Insurance	
Agency:	Title and Escrow Commission	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R592-18. Cost of Doing the Escrow Business
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule is to establish the standard for determining compliance with Subsection 31A-19a-209(3)(a)(ii). The Title and Escrow Commission approved the filing of this rule in its May 9, 2022 meeting by a vote of 4-0.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The law prohibits title insurance agencies from providing below-cost escrow services. For several years, there were varying views as to what constitutes "below-cost." The Insurance Department and title industry have now agreed on a process and a method for determining the amount that is considered "below-cost." The rule reflects this agreement.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The information required by the rule will be reported to the Department and reviewed by the Department as part of the annual report.
B) Local governments:
There is no anticipated cost or savings to local governments. The rule governs the relationship between the Department and its licensees and has no bearing on local governments in any way.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. Title agencies are already expected to track the cost of escrow per transaction. While this rule requires them to create an average from that information, it can be easily done with common office software.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. Title agencies and companies are already expected to track the cost of escrow per transaction. While this rule requires them to create an average from that information, it can be easily done with common office software.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

There is no anticipated cost or savings to any other persons. Title agents are already expected to track the cost of escrow per transaction. While this rule requires them to create an average from that information, it can be easily done with common office software.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. Title licensees already track the cost of escrow per transaction. Creating an average from that information will not require any additional cost.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-404		

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	

Publisher	
Date Issued	
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 07/01/2022

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy): 07/08/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy):	05/16/2022
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R592. Insurance, Title and Escrow Commission.

R592-18. Cost of Doing the Escrow Business.

R592-18-1. Authority.

This rule is promulgated by the Title and Escrow Commission pursuant to Section 31A-2-404.

R592-18-2. Purpose and Scope.

- (1) The purpose of this rule is to establish the standard for determining compliance with Subsection 31A-19a-209(3)(a)(ii).
- (2) This rule applies to a title insurer and a title insurance producer.

R592-18-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-2-402.

R592-18-4. Calculating the Cost of Doing the Escrow Business Under Section 31A-19a-209(3)(a)(ii).

(1)(a) A title insurer, an agency title insurance producer, or an individual title insurance producer who is not an employee of a title insurer or who is not designated by an agency title insurance producer shall file with the commissioner, to be submitted with its annual report, a certified statement of the average residential escrow fee charged by the filer for the prior calendar year.

(b) Submitting the certified statement in Subsection (1)(a) satisfies the requirement of filing with the commissioner a schedule of escrow charges in Section 31A-19a-209.

(2)(a) The commissioner shall establish an industry average residential escrow fee by calculating the average of the residential escrow fees submitted under Subsection (1).

(b) The industry average residential escrow fee shall be calculated for the buyer side and the seller side of a transaction.

(c) The industry average residential escrow fee shall include the sum of the fees charged by a filer for conducting escrow services on any transaction involving a dwelling as defined in Section 57-21-2.

(d) The industry average residential escrow fee shall exclude any pass-through cost incurred incident to the escrow services or the issuance of the title insurance and separately charged to the consumer.

(3) On June 1 of each year, the commissioner shall issue a bulletin that notifies title insurers and title insurance producers of the industry average residential escrow fee for the buyer side and the seller side of a transaction.

(4) The industry average residential escrow fee calculated under Subsection (2) shall take effect on September 1 following the issuance of the bulletin.

(5) Under Subsection 31A-19a-209(3)(a)(ii), the cost of doing the escrow business is 50% of the industry average residential escrow fee for the buyer side and the seller side as calculated under Subsection (2).

R592-18-5. Severability.

If any provision of this rule, Rule R592-18, 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: title insurance

Date of Last Change: 2022

Authorizing, and Implemented or Interpreted Law: 31A-2-404(2)(a), 31A-19a-209(2)(a)(iii)